WAC 172-125-040 Complaints. (1) **Filing of complaints.**

(a) **Who can file a complaint.** Complaints can be filed by anyone who has been directly impacted by conduct that violates this code. The Title IX coordinator can also file a complaint against a student or student organization on behalf of the university. If a complaint is filed by the Title IX coordinator, the Title IX coordinator will not be considered a complainant for the purposes of participating in the investigation and hearing process.

(b) **How to file a complaint.** To initiate a complaint, a person must submit a request for the university to investigate their concerns either verbally or in writing to the Title IX coordinator or designee. Complaints must be filed in good faith. Formal Title IX complaints must be made in writing.

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

(d) **Student conduct code violations.** All complaints against students that do not fall within the scope of this code will be forwarded to student rights and responsibilities for further review and action under the student conduct code, chapter 172-121 WAC.

(2) **Complaint review and dismissal/referral.** Upon receipt of a complaint, the Title IX coordinator shall review the complaint to determine whether it includes allegations of violations of this code and to determine which process applies within 14 calendar days of receiving such complaint. This time may be extended if the Title IX coordinator needs additional information to make such determination or if there is an active criminal investigation. If a complaint falls within the scope of this code, it shall be addressed in accordance with the procedures below and the Title IX coordinator shall determine whether or not the Level One Process, Level Two Process, or Level Three Process applies. If the complainant or respondent has requested informal resolution, the Title IX coordinator will determine whether or not informal resolution is appropriate and, if so, refer the matter to the person designated to handle informal resolutions. If the complaint falls outside of the scope of this code, it shall be referred to the office of student rights and responsibilities for review under the student conduct code, chapter 172-121 WAC.

Additionally, even if a complaint falls within the scope of this code, the Title IX coordinator may dismiss the complaint if:

(a) EWU is unable to identify the respondent after taking reasonable steps to do so;

(b) The respondent is not a student or student organization. Complaints against university employees, volunteers, contractors, and program participants are handled under EWU policy and are outside of the scope of this code;

(c) The complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX coordinator declines to initiate a complaint on behalf of the university, and, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not meet the definition of discrimination, discriminatory harassment, sexual assault, sexual misconduct, interpersonal violence, or retaliation under this code even if proven; or

(d) The conduct alleged in the complaint, even if substantiated by a preponderance of the evidence, would not constitute a violation of this code. Prior to making this determination, the Title IX coordi-

nator or investigator must make reasonable efforts to clarify the allegations with the complainant.

If the complaint falls within the definition of a formal Title IX complaint, a written complaint must be received from either the complainant or the Title IX coordinator requesting initiation of the investigative process, or the complaint will be dismissed. The alleged conduct may be addressed using a different process, but not using the Level Three Process.

The Title IX coordinator will inform the complainant in writing of the reason for dismissing the complaint. If the respondent has already received a notice of investigation, the respondent will also be simultaneously served with notice of the dismissal and the reasons for the dismissal.

Even if a complaint is dismissed, the complainant will be offered supportive measures. If the respondent has already been notified, the respondent will also be offered supportive measures. The Title IX coordinator will also take other appropriate prompt and effective steps to ensure that discrimination does not continue or recur within EWU programs or activities.

The Title IX coordinator may consolidate complaints under this code when the allegations of discrimination, harassment, interpersonal violence, sexual assault, sexual misconduct, or retaliation arise out of the same facts or circumstances. When more than one complaint is involved, all references to the "complainant" throughout this code include all individuals who have filed a complaint against the respondent that are consolidated into one investigation.

(3) **Informal resolution.** If a complainant and respondent are both interested in informal resolution and the Title IX coordinator determines informal resolution is appropriate, EWU will follow the process identified in WAC 172-125-200.

(4) **Appeal of dismissal.** If the complainant or respondent disagrees with the Title IX coordinator's decision to dismiss a complaint, the party may file an appeal with the dean of students within three calendar days of the Title IX coordinator's decision by emailing such appeal to dos@ewu.edu. Appeals may be filed for one or more of the following reasons:

(a) Procedural irregularity that would change the outcome of the Title IX coordinator's decision;

(b) New evidence that would change the Title IX coordinator's decision that was not reasonably available when the dismissal was made; or

(c) The Title IX coordinator or designee had a conflict of interest or bias for or against complainants or respondents generally or the individual parties that would change the outcome.

If the respondent has not been notified of the complaint prior to the dismissal, the respondent will not be notified of the dismissal or appeal. If the respondent has been notified of the complaint, the respondent will also be provided with notice of the dismissal and given the same opportunity to appeal the determination. They will also receive notice if the complainant appeals. If one party appeals and the other party is entitled to notice, the other party will be given notice of the appeal and three calendar days to provide a response to the appeal. The dean of students or designee can affirm, reverse, or remand the Title IX coordinator's decision and such decision must be served in writing simultaneously to the parties who participated in the appeal.

(5) **Interim restrictions.** The Title IX coordinator or designee will also determine whether or not interim restrictions are needed after conducting an individualized safety and risk determination in conjunction with other EWU officials. Interim restrictions must be in place in situations where there is cause to believe that a student or a student organization poses an imminent and serious threat to the health or safety of any student or other individual arising from the alleged misconduct, including themselves. After interim restrictions are imposed, the complaint will be referred for investigation under this code.

(a) Interim restrictions may include, but are not limited to:

(i) Denial of access to certain areas, assignment to alternate university housing or removal from university housing, limitation of access to university facilities, limitations on engaging in certain activities, or restriction of communication with specific individuals or groups;

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

(iii) Mandatory medical/psychological assessment of the student's capability to remain in the university; or

(iv) Administrative leave for student employees.

(b) The Title IX coordinator or investigator will issue a notice identifying the interim restrictions that will be served on the restricted student. At minimum, the notice will include:

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

(ii) How those alleged act(s) or behavior(s) could constitute a violation of this code;

(iii) How the circumstances of the case necessitated the interim restriction action(s); and

(iv) An explanation of the process for emergency appeal reviews.

(c) The complainant will also be provided with notice of any interim restrictions that relate directly to the complainant. If the respondent appeals such interim restrictions, the complainant will be given notice of the respondent's appeal and an opportunity to submit a statement within five calendar days of the notice as to why the interim restriction should or should not be modified.

(d) Emergency appeal review.

(i) If a student has been suspended on an interim basis, the student will automatically receive an emergency appeal review with the vice president for student affairs, or designee. If the interim restriction is something less than a suspension, the student or student organization subject to the interim restriction must file a written appeal with the vice president for student affairs within five calendar days after service of the interim restriction. In all cases, the student must submit any information the student wishes the vice president to consider within five calendar days after service of the interim restriction. The appealing party should outline the desired modification(s) to the interim restriction as well as the specific challenge(s) to the interim restriction decision. Challenges to interim restriction decisions are limited to whether or not there is adequate cause to believe a student or a student organization poses an imminent and serious threat to the health or safety or any student or other individual. Appealing parties are limited to submitting their own written statements. Any other evidence should be submitted to the investigator during the investigative process.

(ii) The vice president for student affairs, or designee, will conduct an emergency appeal review after receiving the respondent's review and complainant's response, if any. Emergency appeal reviews will address only the interim restriction decision of the Title IX coordinator and the basis on which the restriction modification or termination is requested by the appealing party. The emergency appeal review does not replace the regular investigative process. In the emergency appeal review, the vice president will only review materials available to and information considered by the Title IX coordinator at the time the interim restriction was imposed, written statements by the two parties, and information that becomes available as a part of the university's investigation that the vice president deems relevant.

(iii) During the emergency appeal review, the vice president for student affairs will review available materials and statements. The vice president for student affairs will issue a written decision upholding, modifying, or terminating the interim restriction decision. The written decision shall include a rationale for the basis of the decision and be served within 14 calendar days of the date all appeal materials were submitted.

(iv) The interim restriction does not replace the regular investigative process, which will proceed as quickly as feasible consistent with this code.

(e) Duration. An interim restriction will remain in effect until terminated, in writing, by a decision-maker following the Level One, Level Two, or Level Three processes outlined in this code or following a timely appeal of the restriction.

[Statutory Authority: RCW 28B.35.120(12). WSR 25-14-092, s 172-125-040, filed 7/1/25, effective 8/1/25. Statutory Authority: RCW 28B.35.120(12), Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., section 504 of the Rehabilitation Act of 1973, Americans with Disability Act of 1990, 42 U.S.C. § 12101 et seq., and chapter 28B.112 RCW. WSR 24-22-048, s 172-125-040, filed 10/28/24, effective 11/28/24.]