WAC 504-26-045 Evidence. (1) Evidence, including hearsay evidence, is admissible in student conduct proceedings if, in the judgment of the conduct officer or presiding officer, it is the kind of evidence that reasonably prudent persons are accustomed to rely on in the conduct of their affairs. The conduct officer or presiding officer determines the admissibility and relevance of all information and evidence.

(2) A complainant's sexual interests or prior sexual conduct is not relevant and not admissible in a conduct hearing unless such evidence is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The fact of prior consensual sexual conduct between a complainant and a respondent does not by itself demonstrate or imply the complainant's consent to the alleged conduct or preclude determination that the conduct occurred.

(3) For matters involving conduct implicating UPPM 10.60, evidence that was provided to a confidential employee is not admissible, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.

(4) Parties may choose to remain silent during conduct proceedings, recognizing that they give up the opportunity to explain their version of events and that the decision is made based on the information presented at the hearing. No party must be compelled to give self-incriminating evidence, and no negative inference will be drawn from a party's refusal to participate in any stage of the conduct proceeding. If either party does not attend or participate in a hearing, the decision maker may resolve the matter based on the information available at the time of the hearing.

[Statutory Authority: RCW 28B.30.150. WSR 26-09-100, s 504-26-045, filed 4/20/26, effective 8/1/26; WSR 24-23-093, s 504-26-045, filed 11/19/24, effective 12/20/24; WSR 22-23-142, § 504-26-045, filed 11/21/22, effective 1/1/23; WSR 22-07-043, § 504-26-045, filed 3/14/22, effective 4/14/22; WSR 21-07-057, § 504-26-045, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-045, filed 11/19/18, effective 12/20/18.]