

**Minutes**  
Faculty Senate Meeting  
Thursday, October 22, 2015, 2:30 p.m.  
Savery Hall, Room 260

**1. Call to Order and Approval of Agenda.**

Chair Norm Beauchamp called the meeting to order at 2:31 p.m. Chair Beauchamp entertained a motion to remove 'Interim' from item 4 on the agenda making it the "President's Report." The motion was approved with enthusiastic applause. The agenda was approved.

**2. Faculty Senate Chair's Remarks – Professor Norm Beauchamp. [Exhibit A]**

Chair Beauchamp welcomed members to the first meeting of the year and thanked them for their service to the university. He drew attention to a quote from Hellen Keller that read, "Alone we can do so little, together we can do so much." He hoped to engage senators and the faculty they represent in the work of the Senate. Beauchamp pointed members to his written report, specifically the issues identified as priorities for this year including: review of Activity Based Budgeting, a timeline for consideration of the faculty salary policy proposal, the role of lecturers, diversity, equity, and inclusion, childcare issues, shared governance, and the faculty unionization campaign. Beauchamp announced plans for a faculty forum to discuss the unionization proposal. He asked members to consult with their constituents and bring issues and questions to the December 3<sup>rd</sup> meeting. The plan is to aggregate those topics into a program for a forum in December or January, which would be similar in format to the faculty salary policy forum in 2014. There were no questions.

**3. Reports and Opportunity for Questions. (5 min)**

- a. Report of the Secretary of the Faculty. **[Exhibit B]**
- b. Report of the Chair of the Senate on Planning and Budgeting. **[Exhibit C]**
- c. Report of the Faculty Legislative Representative. **[Exhibit D]**

There were no questions or comments.

**4. ~~Interim~~ President's Remarks – Ana Mari Cauce.**

President Cauce welcomed members to the Senate and expressed her excitement about her new role. Cauce thanked members for their well-wishes and said that the way the larger community has received her appointment is a testament to and a vote of confidence in the faculty, students, and the university as a whole. Cauce said that when the Regents asked what she would change she replied that the university is in good shape overall, that she doesn't feel the need to "put her stamp" on things, but that she would be proactive and responsive to the changing needs of the university during this time of growth in the entire region. Cauce stressed the importance of the Senate in having a clear faculty voice to help shape the direction of the university and surrounding community.

President Cauce looked forward to the legislative session in Olympia and mentioned that it would likely be a short session. As such, she hoped it would be an ideal time to get to know legislators and forge relationships. Cauce was proud that UW was considered an elite institution, but made it clear that does not mean we are elitist or don't have caring and compassionate faculty, staff, and students. This was not always the message heard in Olympia so Cauce hoped to expand the legislature's presence on all three campuses and engage students, because they are our best spokespeople. Cauce was thankful to have an investment in higher education from the previous session, in particular the investment in access, but hoped the legislature would follow up with investing in excellence, including competitive salaries for faculty members.

Cauce recently returned from a trip to an American Association of Universities (AAU) meeting where the topic was shared issues among research universities, including burdensome regulations around research dollars. She hoped to work with other universities to save costs on both sides of the funding equation. Also discussed were Title IX issues, specifically about a tendency to shield athletes and wealthy

individuals from trouble. Finally, Cauce met with the Washington Congressional Delegation and was excited to begin conversations with them regarding federal policies on financial aid and access.

President Cauce spoke briefly about the Faculty Senate priorities identified by Chair Beauchamp. She hoped to continue working on lecturer issues, specifically to create a system that is flexible with hiring but encourages long term appointments, promotional pathways, and job security. Cauce hoped to continue working on a new salary policy and praised interim Provost Baldasty for his efforts to pool administrative dollars into expanding childcare access.

Cauce looked forward to discussions regarding faculty unionization and briefly spoke to issues of sensitivity to neutrality and intimidation. She planned to be a part of the discussion but emphasized that the decision would be up to the faculty.

There were no questions and the President left for another meeting. Norm Beauchamp encouraged members to spread the word about the free clinic at Seattle Center, which was ongoing and sponsored in part by UW Medicine.

## 5. Requests for Information.

Summary of Executive Committee Actions and Upcoming Issues of October 5, 2015.

- a. Electronic approval of the [May 4, 2015, SEC minutes](#).
- b. Electronic approval of the [May 21, 2015, Faculty Senate minutes](#).
- c. Senate Executive Committee Summer approved Nominees for Faculty Councils and Committees. **[Exhibit E]**
- d. Shanghai Summit and China visit update, Vikram Jandhyala, vice provost for innovation. **[Exhibit F]**

There were no requests for information.

## 6. Memorial Resolution.

Vice Chair Zoe Barsness read the memorial resolution:

**BE IT RESOLVED** that the minutes of this meeting record the sorrow of the entire faculty upon its loss by death of these friends and colleagues:

Senior Fellow Michael Bruce Agy of Laboratory Medicine, who died on September 25, 2015, after having served the university since 1986.

Professor Emeritus, Kathryn E. Barnard of Nursing, who died on June 27, 2015, after having served the university since 1963.

Professor Alexander Whitehill Clowes of Surgery, who died on July 7, 2015, after having served the university since 1980.

Dean and Professor Emeritus James I. Doi of Education, who died on June 5, 2015, after having served the university since 1979.

Professor Emeritus Nicholas Demetrios Epiotis of Chemistry, who died on July 17, 2015, after having served the university since 1972.

Professor Emeritus John Asbjorn Glomset of Medicine, who died on August 28, 2015, after having served the university since 1960.

Clinical Professor Emeritus Richard Howard Layton of Medicine, who died on June 8, 2015, after having served the university since 1957.

Professor Emeritus Pierre MacKay of Classics, who died on June 14, 2015, after having served the university since 1966.

Clinical Professor Emeritus Daniel Charles Moore of Medicine, who died on September 6, 2015, after having served the university since 1953.

Dean and Professor Emeritus Karl-Åke Omnell of Dentistry, who died on June 30, 2015, after having served the university since 1981.

Professor Emeritus Joseph Velikonja of Geography, who died on May 23, 2015, after having served the university since 1964.

Clinical Associate Professor Emeritus, John A. Wolf, Jr., of Urology, who died on May 30, 2015, after having served the university since 1961.

The faculty approved the resolution by a standing vote.

#### **7. Consent Agenda.**

- a. Approve Nominees for Faculty Councils and Committees. **[Exhibit G]**

The consent agenda was approved.

#### **8. Announcements.**

Secretary of the Faculty Marcia Killien, announced that with sadness but also joy, that this would be the last meeting for Jed Bradley, her assistant, who was leaving his position to become a higher education policy analyst in the UW Office of Planning and Budgeting. She invited the Senate to wish Jed well in his future position.

Susan Astley, Epidemiology, thanked the administration for releasing faculty demographic data. Chair Beauchamp thanked Astley for her hard work in advocating for that release.

#### **9. Unfinished Business.**

There was no unfinished business.

#### **10. New Business.**

- a. **Class B Legislation [Exhibit H]**  
Faculty Council on Student Affairs.  
Title: Proposed revisions to the Student Conduct Code.  
**Action:** Approve for Faculty Senate Consideration.

Chair Beauchamp provided an overview of the process for Class B legislation and introduced the Senate Parliamentarians for the meeting, Joe Janes and Don Berg.

Vice Chair Zoe Barsness moved to consider the legislation. Chuck Treser, chair of the Faculty Council on Student Affairs, and Elizabeth Lewis, director of community standards and student conduct, were invited to speak to the legislation. The Faculty Council on Student Affairs (FCSA) reviewed the changes following a multi-year effort by the Office of Community Standards and Student Conduct. This legislation was an attempt to bring the university into compliance with Title IX, following the Department of Education placing the UW on notice for non-compliance. The university was operating under an emergency rule to extend the federal deadlines. The FCSA planned further revisions to the composition of conduct committees, which he hoped would be considered in a second round of changes later in the year.

Questions and comments followed:

C: Gautham Reddy (Radiology, member of the Faculty Appeal Board) mentioned that the Faculty Appeal Board planned to propose additional changes but said they would hold off until the second consideration. He hoped that the FCSA and the Division of Student Life would invite members of FAB to provide input on future changes.

Reddy moved to change part of section WAC 478-120-137 2. B. i. to move 'only' to later in the sentence to reflect actual practice. The motion proposed to change, "The respondent and any complainant shall be informed that the faculty appeal board may only increase a sanction imposed in an initial order if a formal hearing is held" to, . . . "The respondent and any complainant shall be informed that the faculty appeal board may increase a sanction imposed in an initial order only if a formal hearing is held." The motion passed.

Brad Holt (Chemical Engineering) hoped the UW was cognizant of the differences between official federal policy and comments from members of the federal government. He emphasized that these were complicated issues. Holt reported that he had sent the proposed language to the Foundation for Individual Rights in Education (FIRE). Their reply was that the changes were a net positive and Holt indicated he planned to support the changes.

Mike Townsend (Law) voiced concerns about due process in the legislation, and cited successful lawsuits against other universities. Townsend did not plan to oppose the motion because he understood the urgency of the situation. Treser asked Townsend to attend a future FCSA meeting to address his concerns.

The legislation passed as amended.

b. **Class A legislation** – First Consideration. **[Exhibit I]**

Faculty Council on Faculty Affairs

Title: Proposed amendments to the Faculty Code regarding the reorganization, consolidation and elimination procedures (RCEP).

**Action:** Conduct first review of proposal to submit legislation amending the Faculty Code to the faculty for approval or rejection.

Chair Beauchamp provided an overview of the process for Class A legislation. Vice Chair Zoe Barsness moved to consider the legislation. Gordon Watts, chair of the Faculty Council on Faculty Affairs, and Marcia Killien, Secretary of the Faculty, were invited to speak to the motion. Watts said that the changes were introduced to make the process less cumbersome, especially in the case where faculty and administration agree about proposed program changes. Killien added that the legislation would expand conditions when a limited RCEP could be used.

Q: Who decides whether an RCEP is limited or not?

A: The Provost makes a decision following consultation with the Senate Committee on Planning and Budgeting.

The legislation was approved without objection.

c. **Class A Legislation** – First Consideration. **[Exhibit J]**

Faculty Council on Faculty Affairs

Title: Proposed amendments to the Faculty Code regarding dispute resolution procedures.

**Action:** Conduct first review of proposal to submit legislation amending the Faculty Code to the faculty for approval or rejection.

Vice Chair Zoe Barsness moved to consider the legislation. Chair Beauchamp entertained a motion to add a second-to-last bullet point in Section 28-36 C. reading, "Determine, either upon the Chair's own motion or motion of any party, whether two or more petitions by one or more parties should be consolidated for hearing before a single hearing panel because the petitions contain related or substantially similar grievances or the petitions arise out of the same or similar factual circumstances."

The motion was moved and seconded. Secretary of the Faculty Marcia Killien spoke to the amendment, saying that it was technically allowed already under the [Administrative Procedure Act](#), RCW 34, Chapter 34.05. Killien provided examples under which petitions might be considered for consolidation. Duane Storti (Engineering) spoke in favor of the amendment, calling it a practical way to combine petitions so that outcomes are equal and all concerns get heard. Killien thanked Storti for bringing the issue to the Senate Executive Committee. The motion passed.

Gordon Watts, chair of the Faculty Council on Faculty Affairs (FCFA), and Marcia Killien, Secretary of the Faculty, were invited to speak to the legislation. Joe Janes spoke to the consideration FCFA gave over the previous year. Killien said that the revisions were a result of her compilation of issues and concerns from the previous few years. She added that all changes were vetted by individuals familiar with the adjudication process including the former chair of the Adjudication Panel, members of the adjudication panel, the President's and Provost's offices, the Attorney General's Office, the University Ombud, and attorneys who have represented both sides of previous disputes. The changes in the proposal were largely consensus-based and would not necessarily address all issues. Killien highlighted major changes including adding a vice chair of the Adjudication Panel and allowing that the Senate could appoint a hearing officer to be the adjudication panel chair on a temporary basis. As for revisions to Chapter 27 of the *Faculty Code*, Killien worked with the University Ombud to clarify reporting requirements.

Duane Storti (Engineering) moved to strike the additions at the beginning of Section 28-36 B. The motion was seconded. Storti was frustrated by previous situations where faculty members did not get a chance to have their grievances heard based on technical reasons. Watts asked why the text was added. Killien responded that it was an attempt to provide some guidance for petitioners and respondents, in Sections 28-36 A. and B, regarding what their documents should argue. Jed Bradley (Assistant to the Secretary of the Faculty) added that the proposed addition outlined the *only* reasons the chair of the Adjudication Panel could deny a petition. He added that the change was proposed by the former chair of the Adjudication Panel because of a frustration that some petition responses failed to include a proper argument for denying the petition.

A member noted that these reasons were already explicitly stated in other parts of the *Faculty Code* language. Storti advocated for providing better information about what a response should look like in filing procedures but not necessarily in the *Code*.

The question was called and the motion passed

The legislation was approved as amended.

#### 11. Good of the Order.

Steve Buck (Psychology) asked about making use of the Senate to discuss unionization. Chair Beauchamp asked members to talk to their constituents. He added that the position of the Faculty Senate leadership was that it was their job to provide forums, not take a position.

Susan Astley (Epidemiology) asked about the status of the Special Committee on Intellectual Property and Commercialization (SCIPC) and noted that while they jointly voted with the Intellectual Property Management Advisory Committee (IPMAC) to combine efforts, no meeting had taken place. Kate O'Neill responded that the status was unclear and confirmed that IPMAC had not met. O'Neill promised to work on reconvening the body, and noted that theoretically SCIPC could meet.

Duane Storti (Engineering) asked if it is okay to discuss unionization in faculty meetings. The answer was 'yes.'

Eric Strachan (Psychiatry) advocated for more information about unionization and noted that many faculty at Harborview, for example, were very much 'out of the loop.' Beauchamp hoped that the Senate could be a source of information and hoped to post questions and concerns on a rolling basis.

#### 12. Adjournment.

The meeting was adjourned at 4:36pm.

Prepared by:

  
Marcia Killien  
Secretary of the Faculty

Approved by:

  
Norm Beauchamp, Chair  
Faculty Senate

Report of the Faculty Senate Chair  
Norm Beauchamp, Professor, Radiology

I begin by thanking you for the opportunity to serve. My tenure at the University of Washington has been transformational for me. My goal as Chair of the Faculty is to try and contribute back. In observing closely the work of the chairs that have preceded me including Jack Lee and Kate O'Neill, in discussions with the chairs of the faculty councils, in conversations with many of you, and in considering challenges faculty at our peer institutions are facing, a number of priorities have been identified.

1. **Activity Based Budgeting:** The Faculty Senate is examining the impact of Activity Budgeting (ABB). There have been concerns raised that it is creating sustainability challenges for faculty. The ABB review committee who monitors the operation of ABB has asked the faculty councils to develop policy recommendations for the following issues. The ABB committee hopes to receive a preliminary report from each council by the end of fall quarter.
  - **Faculty Council on Academic Standards** is reviewing the issues surrounding the effects of ABB on educational collaboration.
  - **Faculty Council on Research** is reviewing the issues surrounding the effects of ABB on research collaboration.
  - **Faculty Council on Teaching and Learning** is addressing the relationship between ABB and summer quarter.
2. **The Faculty Salary Policy:** For over two years, the faculty have been working together to implement a salary policy that minimizes compression, compensates faculty commensurate with peer institutions, and accommodates the flexibility deemed necessary by faculty in different colleges. We will bring the policy to a faculty vote during this academic year.
3. **The Role of the Lecturer:** Teaching is a core part of our mission. Lecturers play an absolutely central role in this mission. Establishing a track for advancement, a mechanism for job security, competitiveness of compensation and a voice in decision making have been areas of focused effort for the Senate. Ultimately, the goal must be to create a culture that values the role of lecturers. We will continue our efforts bringing forward resolutions and initiatives needed to more fully support our colleagues.
4. **Diversity, Equity and Inclusion:** A class C resolution was passed last year that advocated for informing search committees on best practices for identifying and recruiting a diverse candidate pool. Creating and sustaining a diverse faculty is the only way we will continue to excel as a faculty. The Faculty Council on Multicultural Affairs and the Faculty Council on Women in Academia are maintaining their great momentum by considering issues such as equity in compensation, researching and developing an actionable-agenda for overcoming the barriers women face in academic advancement, and completing existing joint council legislative agendas including a proposed joint council statement on Black Lives Matter as a faculty-supported resolution and sponsoring a faculty supported resolution addressing faculty and student-related changes to sexual assault policies at the UW. Lastly, we are seeking to identify ways to align the efforts of our faculty councils with the other great work that is occurring on campus.
5. **Child Care:** Establishing Child Care facilities for the faculty was a priority for many of the councils last year. The President and the Provost have joined the faculty in making this a priority. We will work to ensure that new child-care resources are put in place.
6. **Faculty Support:** The competition for increasingly limited extramural funding has become unsustainably challenging for a number of faculty. We must work together to identify mechanisms to secure additional resources and make the best use of existing resources.
7. **Shared Governance:** Although we were unable to bring the salary policy to a vote last year, we saw mobilization of faculty voices that was unprecedented in recent history. A key goal for this year is to build on this energy to ensure that the Senate and the College Councils are identifying the issues that

are most important to sustain the missions of the faculty. Every senator must come to the meetings informed and prepared to represent the concerns of the faculty they represent and committed to bringing back needed solutions.

Importantly, this is not a comprehensive list. Each of our Councils is also reflecting on what they have identified as core issues for the faculty, seeking to identify at least three areas of focus for the upcoming year. We will be listing those initiatives on the Faculty Senate website. I really welcome your input on the initiatives above defined and the goals identified by each of the Councils.

Do not hesitate to contact me at [nbeauch@uw.edu](mailto:nbeauch@uw.edu). My commitment is to do the very best I can in serving your goals.

Report of the Secretary of the Faculty  
Marcia Killien, Professor, Family and Child Nursing

1. Over the summer the Secretary has met with individual faculty and administrators to seek advice on a variety of matters, including proposed Class A legislation to modify dispute resolution procedures in Chapters 27 and 28, and the RCEP procedure in Chapter 26. She also met with groups to discuss proposed revisions to Executive Orders 50 and 61.
2. All Faculty Councils have full membership and chairs appointed. Welcome to all returning and new members! The list of members, along with meeting minutes and schedules can be found on our website at <http://www.washington.edu/faculty/committees/councils.html>
3. The Senate Leadership will be meeting regularly throughout the year with Faculty Council Chairs and Chairs of the Elected Faculty Councils of Schools, Colleges, and Campuses (i.e. "college councils") for coordination and information sharing. Specific invitations to these meetings will be forthcoming.

Report of the Chair of the Senate Committee on Planning and Budgeting  
Kate O'Neill, Professor, Law

*The Senate Committee on Planning and Budget meets weekly with the Provost, the Vice-Provost for Planning and Budget, and the head of the Board of Deans. SCPB is charged with consulting on all matters relating to the University budget and on a wide range of program and policy decisions.*

The SCPB is advisory to Interim Provost Jerry Baldasty with a reporting obligation to the Senate Executive Committee and to the Senate. I will also be working closely with the Office of Planning and Budgeting (OPB) and with Dr. Norm Beauchamp, Chair of the Faculty Senate, to coordinate agendas and provide needed budget information.

We will be busy in autumn quarter. SCPB's first agenda item this fall will be to review the content and accessibility of faculty demographic data that will be made available via Tableau. SCPB will be studying data on UW faculty salaries to estimate the gap between our salaries and peers' across the three campuses and within units and to assess the amount of compression of long-serving faculty. We will also be looking at faculty demographics, workloads, and salaries in order to provide data relevant to understanding and improving the working conditions and status of instructional faculty on all three campuses. Lastly, we will be reviewing UW faculty salary data, comparing it with peers institutions' salary data, and reviewing OPB models of the overall and unit-level costs to achieve competitive salaries within defined time frames.

SCPB will be advising the Interim Provost as he works with deans on their respective budget proposals and requests, if any, for unit adjustments. SCPB will also forward recommendations to SEC for that group's information as it reviews the salary policy proposal that will be forwarded to the Senate.

Lastly, we will track the progress of the UW's requests for the 2016 supplemental budget and advise the Provost on the UW's priorities and budget proposals for the 2017 – 19 biennium, and beyond.

There are, of course, many other topics relevant to planning and budgeting, and I will report to SEC as we proceed through other topics, such as the campus master plan, capital budget, capital campaign, student enrollment, tuition and debt load, graduate school financing, and risk management.

In general, SCPB will spend most of its time this year on medium- to long-term planning. We will use the Sustainable Academic Business Plan as a key source of priorities and then orient SCPB's work to advising on how and when to make the necessary investments.

My goal is to ensure that the Senate leadership, Senators, Council Chairs, and Elected Faculty Council Chairs are well-informed and empowered to provide input on significant, long-term planning and budget choices. If you have topics that you would like SCPB and the Interim Provost to review, please let me know.

Report of the Faculty Legislative Representative  
JoAnn Taricani, Associate Professor and Chair, Music History Program  
[olympia@uw.edu](mailto:olympia@uw.edu)

### **Faculty legislative report, Faculty Senate (10-22-2015)**

JoAnn Taricani, Faculty Legislative Representative

Below is a report on the final outcome of the 2015 legislative session, which allocated the biennial budget for 2015-17. I want to encourage you to attend Autumn town hall and other district meetings of your elected state legislators. If you are not on the mailing list for your legislators, you can contact them by using this district locator: <http://app.leg.wa.gov/DistrictFinder/> Support of higher education was a major priority in the 2015 legislative session, and legislators appreciate hearing from their constituents on issues.

This initial report will focus on the outcome of the 2015 legislative session, which did not conclude until almost a month after the UW had ended the academic year. The one regular session and three special sessions that created the longest number of days in session in the history of the state: 176 days. Higher education became one of the most pressing points of negotiation in the final days: all roads led to funding higher education more fully, and the issue was how to provide the funding.

Ultimately, the 176 days resulted in one of the best budgets in memory for the University of Washington, with \$119 million of new funding appropriated to the UW, a 23.8% increase over the 2013-15 biennium. This increase includes funding for salary increases, a tuition reduction for resident undergraduates, and many specific items that are noted in the attachments. This now makes four years in a row that the state has not only increased the UW budget, but has backfilled the loss of state funding in the constrained years of 2007-13; our goal now, as President Cauce has said, is to sustain this reinvestment. Legislators discovered substantial local support in their districts for their previous reinvestment in the 2013-15 budget, and now are getting considerable national attention as the first state legislature to make a substantial reinvestment of state funding through the tuition reduction for 2015-17.

Here are three global observations about the Legislature and the UW in the 2015 session:

First, what is presented as a tuition freeze or reduction to the public is understood by legislators as reinvesting in higher education, to remedy the cuts that had been made during the recession of 2007-13. While the public understands this reinvestment as a tuition reduction for 2015-17, the Legislature views it as restoring its responsibility to balancing the state subsidy to public colleges and universities.

Second, I have never seen so much legislative support for higher education as developed in Olympia leading up to and during the 2015 session. We are very fortunate not only in the budgetary funding, but also in the policy support of our Legislature for our academic mission – the levels of appreciation continues to increase regarding the discovery and excellence of the University of Washington. The Legislature has deeply engaged with and committed to higher education for 2015-17, making it a top priority for funding; this continued the reinvestment it began to make in 2013-15, now in a more dramatic manner. It is rewarding to see how our legislators bring to the discussion their own range of experience of undergraduate and advance degrees from liberal arts institutions and the leading public and private research universities in the country. Our legislators have backgrounds as Rhodes Scholars, K-12 teachers, university faculty; and in business, farm industry, the military, and technology fields. This blend of professional interests, combined with the breadth of their educational experiences, makes many different components of the UW vitally significant to them.

Finally, many hands, many minds, and years of preparation led to this outcome. Setting budget priorities began back in 2013 with Jim Gregory (History) leading the Senate Committee on Planning and Budgeting during the budget proposal process, handing the committee on to Jack Lee (Mathematics) for 2014-15. Kate O'Neill (Law) will begin the budget process for 2017-19 in September when she becomes the chair of the committee. It was quite surprising to find ourselves with a new president and provost a few weeks into the legislative session, and remarkable to watch how our interim President Cauce and interim

Provost Baldasty did not miss a single beat in stepping into the middle of the rushing river that is the legislative session. Genesee Adkins is our new director of state relations and our constant presence in Olympia, along with her associate director Patrick Bell. We owe them, Ana Mari, and Jerry considerable thanks for their relentless efforts to track the interests of the UW in the multiple sessions and record number of budget proposals. Also, many of our faculty colleagues came to Olympia to testify and talk to legislators in hearings; thank you for bringing your deep professional expertise to the legislative process when invited.

If you have a few minutes, please write to your legislators to thank them for supporting higher education so profoundly for 2015-17. You can find their direct email addresses at:

<http://app.leg.wa.gov/Rosters/Members>

A summary of the final budget allocation can be found at:

[http://opb.washington.edu/sites/default/files/opb/Policy/2015-17\\_Operating\\_Budget\\_Summary.pdf](http://opb.washington.edu/sites/default/files/opb/Policy/2015-17_Operating_Budget_Summary.pdf)

I am very pleased at this final result, and again thank our Faculty Senate leadership going back several years, along with the many faculty members who took the time to present testimony in Olympia and to contact their own legislators.

**2015 – 2016 Appointments to University and Senate Committees  
Appointments approved by the SEC over the summer**

*Faculty Code Section 22-60.B.12: The Executive Committee of the Senate: (12.) Shall act for the Senate during the period from the last Senate meeting in the Spring Quarter until the first meeting in the Autumn Quarter, and shall report such actions at the first Senate meeting in the Autumn Quarter.*

**Faculty Council on Benefits and Retirement (Meets Mondays at 2:30)**

- Tom Dodson, School of Dentistry, Oral and Maxillofacial Surgery, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Julia Metzner, School of Medicine, Anesthesiology, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Faculty Council on Multicultural Affairs (Meets Mondays at 12:30)**

- Teresa Evans-Campbell, School of Social Work, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Faculty Council on Research (Meets Wednesdays at 9:00)**

- Eliot Brenowitz, College of Arts & Sciences, Psychology, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Charles Frevert, School of Medicine, Comparative Medicine, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Faculty Council on Student Affairs (Meets Tuesdays at 1:30)**

- Jasmine Bryant, College of Arts & Sciences, Chemistry, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Holly Barker, College of Arts & Sciences, Anthropology, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Christopher Campbell, College of Built Environments, Urban Design and Planning, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Faculty Council on Teaching and Learning (Meets Thursdays at 10:30)**

- Kathleen Peterson, Public Health, Health Services, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Timea Tihanyi, College of Arts & Sciences, Art, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Faculty Council on Tri-Campus Policy (Meets Thursdays at 9:00)**

- Ehsan Feroz, UW Tacoma, Business, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Faculty Council on University Libraries (Meets Wednesdays at 2:30)**

- Betty Bekemeier, School of Nursing, Psychosocial and Community Health, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Kristin Gustafson, UW Bothell, Interdisciplinary Arts and Sciences, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Faculty Council on Women in Academia (Meets Mondays at 12:30)**

- Whasun Chung, School of Dentistry, Oral Health Sciences, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

- Bonnie Duran, School of Social Work, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Adjudication Panel**

- Lisa Kelly, School of Law, as chair for a term beginning September 16, 2015 and ending September 15, 2016.
- Karen Boxx, School of Law, as vice chair for a term beginning September 16, 2015 and ending September 15, 2016.
- Lisa Kelly, School of Law, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Karen Boxx, School of Law, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Advisory Committee on Faculty Code and Regulations**

- Rich Christie, College of Engineering, Electrical Engineering, as chair for a term beginning September 16, 2015 and ending September 15, 2018.

**Conciliation Board\***

- Gordon Bradley, College of the Environment, as a member for a term beginning immediately and ending September 15, 2017
- Rose Ann Cattolico, College of Arts & Sciences, as a member for a term beginning immediately and ending September 15, 2017
- Harris Baden, School of Medicine, as a member for a term beginning September 16, 2015 and ending September 15, 2018
- Marieka Klawitter, Evans School of Public Policy and Governance, as a member for a term beginning September 16, 2015 and ending September 15, 2018
- Gail Stygall, College of Arts & Sciences, as a member for a term beginning September 16, 2015 and ending September 15, 2018
- Linda Watts, Interdisciplinary Arts & Sciences, UW Bothell, as a member for a term beginning September 16, 2015 and ending September 15, 2018

*\*nominated by the SEC, to be forwarded to the President for consideration of appointment*

**CHINA VISIT NOVEMBER 2015**  
**October 5, 2015**  
**PRESENTED AT THE FACULTY SENATE**  
**EXECUTIVE COMMITTEE MEETING**

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*Vikram Jandhyala*

*Vice Provost for Innovation @ UW*

*Executive Director, CoMotion*

*UW co-CEO, Global Innovation Exchange*

*vj@uw.edu*

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UNIVERSITY of WASHINGTON



**VISIT TO CHINA**  
**NOVEMBER 9<sup>TH</sup> – 14<sup>TH</sup>**



<http://www.chinatouronline.com/upfile/200904/2009042216302771875.jpg>



## VISIT PRIORITIES

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PAC 12 game and coordination with PAC 12  
Engagement with alumni  
Tsinghua University and GIX  
Innovation Summit  
Engagement with industry



## VISIT PARTNERSHIPS

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### Internal

President's Office  
Admissions  
Office of Global Affairs  
Regional Advancement  
CoMotion  
Global Innovation Exchange  
University Marketing and Communications  
Athletics  
Student Life

### External

Microsoft  
Economic Development Council of Seattle and King County  
Trade Development Alliance of Greater Seattle  
Governors Gregoire and (possibly) Locke



## VISIT ITINERARY

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Monday, November 9<sup>th</sup>

Tsinghua University

Tuesday, November 10<sup>th</sup>

Visit to the Alibaba campus with UW Basketball team

Wednesday, November 11<sup>th</sup> – Thursday, November 12<sup>th</sup>

Meetings with alumni and industry

Friday, November 13<sup>th</sup>

Innovation Summit

Saturday, November 14<sup>th</sup>

Pac-12 Basketball Game

UW Asia Alumni & Friends Reception



## BEIJING

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Tsinghua University

Global Innovation Exchange 

Connects directly to industry and mentors

Links back to the best of UW's and Tsinghua's researchers



<http://saudersummit.ca/blog/?p=90>



## ALIBABA GROUP

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Meeting with Jack Ma and Alibaba Leadership  
Alibaba Campus Tour



<http://www.c-markaudio.com/upload/fckeditor/2013-09/16095944.jpg>



## INNOVATION SUMMIT

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### Keynote

Brad Smith, President of Microsoft

### Presentations and Moderated Discussions

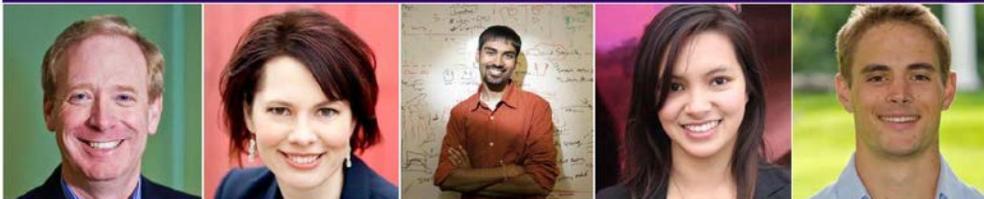
Gina Neff, UW Department of Communication

Shwetak Patel, UW Departments of Computer Science & Engineering and Electrical Engineering

Adina Mangubat, CEO, Spiral Genetics

Ben Waters, PhD Candidate, UW Department of Electrical Engineering

<http://www.westinghouse.edu/shanghai/innovation-summit/>



## PAC-12 BASKETBALL GAME

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UW Huskies vs. University of Texas Longhorns  
First regular-season game ever hosted by a U.S. league  
in China



<http://www.washington.edu/shanghai/>



## UW ASIA ALUMNI & FRIENDS RECEPTION

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UW's alumni reception in Asia



<http://www.washington.edu/shanghai/>



## QUESTIONS / COMMENTS ?

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Please spread the word to your contacts in China  
Let them know about the upcoming opportunities to  
engage with the UW

Direct them to [www.washington.edu/shanghai/](http://www.washington.edu/shanghai/) for more  
information or to register



**2015 – 2016 Appointments to University and Senate Committees****Faculty Council on Academic Standards (Meets Fridays at 1:30)**

- LeAnne Jones Wiles, PSO, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Robin Chin Roemer, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Roy Taylor, ASUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.\*

**Faculty Council on Benefits and Retirement (Meets Mondays at 2:30)**

- Charles Chamberlin, UWRA, University Libraries, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Casey Gifford, PSO, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Thomas Deardorff, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.\*

**Faculty Council on Faculty Affairs (Meets Tuesdays at 9:30)**

- Aaron Katz, School of Public Health, Health Services, as a member for a term beginning September 16, 2015 and ending September 15, 2016.
- Judith Henchy, ALUW, as an ex-officio member without vote for a term beginning September 16, 2015 and ending September 15, 2016.

**Faculty Council on Multicultural Affairs (Meets Mondays at 12:30)**

- Katie Woods, PSO, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Patricia Devine, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Mitchell Chen, ASUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.\*

**Faculty Council on Research (Meets Wednesdays at 9:00)**

- Jennifer Harris, PSO, as an ex-officio member without vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Diana Loudon, ALUW, as an ex-officio member without vote for a term beginning September 16, 2015 and ending September 15, 2016.

**Faculty Council on Student Affairs (Meets Tuesdays at 1:30)**

- Sophie Nop, ASUW Tacoma, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Dominick Juarez, ASUW Bothell, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Martha Tran, PSO, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Kathleen Collins, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Roy Taylor, ASUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.\*

**Faculty Council on Teaching and Learning (Meets Thursdays at 10:30)**

- Fred Bookstein, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Deci Evans, PSO, as an ex-officio member without vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Terry Ann Jankowsky, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.\*

#### **Faculty Council on Tri-Campus Policy (Meets Thursdays at 9:00)**

- Margo Bergman, UW Tacoma, Milgard School of Business, as a member for a term beginning September 16, 2015 and ending September 15, 2018.\*
- Ann Frost, UW Tacoma, Interdisciplinary Arts & Sciences, as a member for a term beginning September 16, 2015 and ending September 15, 2018.\*
- Freddy Mora, PSO, as an ex-officio member without vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Jennifer Sundheim, ALUW, as an ex-officio member without vote for a term beginning September 16, 2015 and ending September 15, 2016.\*

#### **Faculty Council on University Facilities and Services (Meets Thursdays at 10:00)**

- Steve Goldblatt, UWRA, Construction Management, as an ex-officio member with vote for a term beginning September 16, 2015, and ending September 15, 2016.
- John Carroll, PSO, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Chris Byrne, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.

#### **Faculty Council on University Libraries (Meets Wednesdays at 2:30)**

- Beth Kerr, UWRA, Psychology, as an ex-officio member with vote for a term beginning September 16, 2015, and ending September 15, 2016.
- Ellen Barker, PSO, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Susan Redalje, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.

#### **Faculty Council on Women in Academia (Meets Mondays at 12:30)**

- Jill McKinstry, UWRA, University Libraries, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2018.
- Francesca Lo, PSO, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Maureen Nolan, ALUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.
- Elloise Kim, GPSS, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.\*
- Mitchell Chen, ASUW, as an ex-officio member with vote for a term beginning September 16, 2015 and ending September 15, 2016.\*

#### **Senate Committee on Planning and Budgeting**

- Marjorie Olmstead, College of Arts & Sciences, Physics, as a member for a term beginning September 16, 2015 and ending September 15, 2018.
- Kurt Johnson, School of Medicine, Rehabilitation Medicine, as a as a member for a term beginning September 16, 2015 and ending September 15, 2018.

**Adjudication Panel**

- Christoph Giebel, College of Arts & Sciences, International Studies, as a member for a term beginning September 16, 2015 and ending September 15, 2018.

*\*added after the October 5, 2015 SEC meeting*

**Class B Legislation****Revision to Student Conduct Code, WAC 478-120****Approved by the Faculty Council on Student Affairs – September 29, 2015**Background

The proposed revisions to the existing student conduct code WAC 478-120 are designed to clarify expectations for students while making the process more transparent and easier to navigate. Several of the new proposed sections draw heavily from the existing code WAC 478-120 by pulling out important concepts or rights that were buried in multiple sections of the current conduct code into one section. This revised code clearly outlines student's rights and responsibilities while preserving the general procedures for imposing disciplinary sanctions through the informal hearing, the University Disciplinary Committees, the Faculty Appeal Board and the President's office. Revisions to the general procedures used in these sections are to reflect current practice.

**New Proposed Sections:**WAC 478-120-12 Preamble

This was formerly WAC 478-120-020(1) under Standards of Conduct. There have been no changes to the wording of this section. This is the foundational statement for the Student conduct code and as such should be recognized as a stand-alone part of the student conduct code.

WAC 478-120-14 Definitions

This section provides explanations for terms previously used in the code or new terms that have been added to the code. This section provides a common language and understanding of terms used through the revised code.

WAC 478-120-016 Statement of jurisdiction

In the current structure of WAC 478-120, Jurisdiction (WAC 478-120-050) appears later in the code and focuses on who can take action under the code rather than addressing under what terms and where does the student conduct code apply to students. This proposed section moves to the front of the code information for students of when the code starts applying to them (from the time of admission through the actual conferral of degree) and provides specificity regarding when the code ceases to apply to students, i.e. when they are not students anymore because of conferral of a degree. It identifies where and under what circumstances, the University may take disciplinary action. Lastly, it preserves the ability of the Colleges, Schools and Programs to take academic action when students fail to uphold the professional standards of that academic discipline.

WAC 478-120-024 Prohibited conduct

This revision provides definitions and examples to students of the University's expectations of them. By having this in one section with separate distinct subsections it allows for ease of navigation and tracking for compliance purposes.

WAC 478-120-026 Reporting violations of the student conduct code and initiating conduct proceedings

In the current code this information was located in several different places. This new section brings these rules together in one section. It provides information for how a person reports an alleged violation of the student conduct code and to whom. It further clarifies that academic misconduct is the purview of the Deans and Directors, which had been the practice but the revision makes it clearer. It also informs who under the code has authority to take disciplinary action and how that authority is delegated.

WAC 478-120-032 Participation of advisors and attorneys

The student conduct code has allowed for advisors and attorneys to participate and represent students in the formal adjudicative process. However this was listed in several places in the code and it wasn't clear as to what the role of the Advisor or Attorney would be at a brief adjudicative process, which includes both the informal hearing and the hearings before the University Disciplinary Committees. This new section informs that any party, (i.e. a respondent, or in cases of sexual misconduct, a complainant) may be accompanied by an advisor or attorney to any disciplinary proceeding.

WAC 478-120-034 Service of notices and orders and time limits

This section outlines that service will be provided to students electronically through their UW email address. This brings the code up to date with a change in the Washington Administrative Procedures Act which now allows electronic service but requires that we provide notice to students that we are using electronic service. This section serves that purpose. Additionally, the code has a number of time frames outlined; particularly important is the time frame for submitting a written petition for appeal or review. This section informs students how that time frame is calculated.

WAC 478-120-036 Standard and burden of proof

Defines preponderance of the evidence and establishes who has the burden to show by a preponderance of the evidence that a violation occurred.

WAC 478-120-038 Interim Measures

The University must under Title IX take steps to reduce harassment and mitigate its effects. Interim measures are designed to separate parties, mitigate effects of harassment and are not sanctions under the student conduct process.

WAC 478-120-137 Supplementary Provisions Regarding Sexual Misconduct

This section was added as an emergency rule to bring us into compliance with the requirements of Violence Against Women Act amendments to the Clery Act which went into effect July 1, 2015. Much of this supplementary section has been absorbed in to the revisions of this code, specifically the prohibited behaviors. However, this section clarifies the process and procedures used at a Faculty Appeal Board hearing and establish that the Faculty Appeal Board has the authority to hear the matter separate and distinct from "exceptional circumstances".

**Proposed changes related to the Student Conduct Code  
WAC 478-120-10 through WAC 478-120-145**

STUDENT CONDUCT CODE  
WASHINGTON ADMINISTRATIVE CODE  
Rules of the University of Washington  
Chapter 478-120 WAC

*Draft Revisions 9/2015*

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**STUDENT CONDUCT CODE FOR THE UNIVERSITY OF WASHINGTON**

478-120-010	Student conduct code—Authority.
478-120-012	<u>Preamble (new)</u>
478-120-014	<u>Definitions (new)</u>
478-120-016	<u>Statement of jurisdiction (new)</u>
478-120-020	Standards of conduct.
478-120-024	<u>Prohibited conduct (new)</u>
<del>478-120-025</del>	<del>Off-campus conduct.</del>
478-120-026	<u>Reporting violations of the student conduct code and initiating conduct proceedings (new)</u>
478-120-030	General procedures for disciplinary sanctions.
478-120-032	<u>Participation of advisors and attorneys (new)</u>
478-120-034	<u>Time limits and service of notices and orders (new)</u>
478-120-036	<u>Standard and burden of proof (new)</u>
478-120-038	<u>Interim measures (new)</u>
478-120-040	Disciplinary sanctions.
<del>478-120-050</del>	<del>Jurisdiction.</del>
478-120-065	Informal disciplinary hearings.
478-120-075	Appeals.
478-120-085	The university disciplinary committees.
478-120-095	Hearings before the university disciplinary committees.
478-120-100	Faculty appeal board.
478-120-105	Administrative review by the faculty appeal board.
478-120-115	Formal hearings before the faculty appeal board.
478-120-125	Review by the president of the university.
478-120-135	Reconsideration of final orders.
478-120-137	<u>Supplementary provisions regarding sexual misconduct.(new)</u>
478-120-140	Emergency authority of the president and chancellors of the university.
478-120-145	Recording and maintenance of records

**478-120-010 Student conduct code—Authority.**

Pursuant to chapter 34.05 RCW and the authority granted by RCW 28B.20.130, the board of regents of the University of Washington has established the following ~~regulations on~~ rules regarding student conduct and student discipline.

**478-120-012 Preamble.**

The University of Washington (“university”) is a public institution responsible for providing instruction in higher education, for advancing knowledge through scholarship and research, and for providing related services to the community. As a center of learning, the university also has the obligation to maintain conditions conducive to the freedom of inquiry and expression to the maximum degree compatible with the orderly conduct of its functions. For these purposes, the university is governed by rules, regulations, procedures, policies, and standards of conduct, including this conduct code, that safeguard its functions and protect the rights and freedoms of all members of the university community.

**478-120-014 Definitions.**

For the purposes of this conduct code, the following definitions apply:

- (1) **“Advisor”** is a person selected by a respondent or a complainant to provide support and guidance in hearings under this conduct code.
- (2) **“Attorney”** is a person permitted to practice law in Washington State.
- (3) **“Allegation of misconduct”** is any report of an alleged violation of this conduct code, which may include, but is not limited to, a police report, an incident report, a witness statement, other documentation, or a verbal report or written statement from a complainant or a third party.
- (4) **“Complainant”** is a student or another member of the university community who reports that a violation of this conduct code has been committed against him or her. In any case involving an allegation of sexual misconduct as defined in this conduct code, a complainant is afforded certain rights under this conduct code including, but not limited to:
  - (a) The right to be informed of all orders issued in the disciplinary case in which he or she is a complainant;
  - (b) The right to appeal to the faculty appeal board an initial order issued by a conduct officer;
  - (c) The right to request presidential review of an initial order issued by the faculty appeal board;  
and
  - (d) The right to be accompanied to all hearings by an advisor and/or an attorney.
- (5) **“Conduct officer”** is a university official who has the authority to initiate disciplinary proceedings, conduct investigations and informal hearings, and issue initial orders under this conduct code.
- (6) **“FERPA”** refers to the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and its implementing regulations (34 C.F.R. Part 99).
- (7) **“Initial order”** refers to an initial written decision issued in a disciplinary matter by a conduct officer, a university disciplinary committee, or the faculty appeal board in accordance with the provisions of this conduct code.
- (8) **“Parties”** means collectively the conduct officer and the respondent. In any case involving an allegation of sexual misconduct, any complainant may elect to participate as a party in accordance with the provisions of this conduct code.
- (9) **“Proceedings”** means all processes related to the investigation and adjudication of a disciplinary matter under this conduct code, including, but not limited to, investigations, informal and formal hearings, administrative review, and requests for reconsideration of a final order.
- (10) **“Respondent”** is any student accused of misconduct under this conduct code. Each respondent is afforded certain rights including, but not limited to:
  - (a) The right to be informed of all orders issued in the respondent’s disciplinary case;
  - (b) The right to appeal an initial order issued by a conduct officer and a university disciplinary committee;
  - (c) The right to request a presidential review of an initial issued by the faculty appeal board; and
  - (d) The right to be accompanied to all hearings by an advisor and/or an attorney.
- (11) **“Sexual misconduct”** includes committing, or aiding, soliciting, or attempting the commission of, the following prohibited conduct: sexual assault, sexual harassment, sexual exploitation, indecent exposure, relationship violence, stalking, and domestic violence.
- (12) **“Student organization”** is a group of students that has complied with the requirements for university recognition or who otherwise are granted any rights or privileges by the university as a

university affiliate. Student organizations include, but are not limited to athletic teams or clubs, registered student organizations (RSOs), university service clubs, and sororities and fraternities. (Student organizations are also subject to the process and procedures outlined in the RSO Policy Guide and/or the organization's applicable recognition agreement.)

- (13) "Student" is any person enrolled in or taking courses at or through the university, either full-time or part-time, including credit, non-credit, online, and non-degree courses, and any person who has been notified of acceptance for admission by the university. A student who withdraws from a course or from the university, or completes his or her courses after the date of an alleged violation, or who is not enrolled for a particular quarter or quarters, but has a continuing relationship with the University, is still considered a student for purposes of this conduct code.
- (14) "University premises" includes all of the university's campus buildings, grounds, and facilities, all of its extension and research locations, and all other university-leased, owned, or managed buildings, grounds, and facilities, including its global learning centers and study abroad program sites, as well as all university sponsored and/or hosted online platforms.
- (15) "University community" includes all university students and employees. It also includes guests of and visitors to the university during the time they are present on university premises.
- (16) "University official" is an employee of the university performing his or her assigned administrative, professional, or paraprofessional duties.

#### **478-120-016 Statement of jurisdiction.**

- (1) This conduct code applies to all students from the time of admission through the actual conferral of a degree, including any period between terms of enrollment.
- (2) The university shall have the authority to hold students accountable under this conduct code for misconduct that occurs on any university premises or in connection with any university-sponsored event or activity.
- (3) The university may also hold students accountable under this conduct code for off campus misconduct (i.e., misconduct that does not occur on university premises or in the context of a university-sponsored event or activity) that the university reasonably determines adversely affects a university interest. Nothing in this subsection shall be construed as being intended to protect any person or class of persons from injury or harm.
- (4) Disciplinary proceedings may be initiated under the conduct code regardless of whether or not the incident in question is the subject of criminal or civil proceedings.
- (5) Nothing in this conduct code shall be construed to limit academic action that may be taken by schools, colleges, or programs against a respondent based on an established violation of this conduct code that demonstrates a failure to meet the academic and/or professional standards of the school, college, or program.
- (6) Other departments or units of the university have proceedings separate and distinct from this conduct code. For example:
  - (a) Campus parking and traffic regulations are under the general jurisdiction of the transportation services department and the police department at the University of Washington Seattle campus and under the jurisdiction of public safety officers at the University of Washington Bothell and Tacoma campuses. See chapters 478-116, 478-117 and 478-118 WAC.
  - (b) The library fines appeals committee has the authority to consider appeals of library charges. See chapter 478-168 WAC.
- (7) Nothing in this conduct code will be construed to deny students their legally and/or constitutionally protected rights.

**478-120-020 Standards of conduct.**

- (1) ~~The university is a public institution having special responsibility for providing instruction in higher education, for advancing knowledge through scholarship and research, and for providing related services to the community. As a center of learning, the university also has the obligation to maintain conditions conducive to freedom of inquiry and expression to the maximum degree compatible with the orderly conduct of its functions. For these purposes, the university is governed by the rules, regulations, procedures, policies, and standards of conduct that safeguard its functions and protect the rights and freedoms of all members of the academic community.~~
- (1)(2) Admission to the university carries with it the presumption that students will conduct themselves as responsible members of the ~~academic community~~ university community. As a condition of enrollment, all students assume responsibility to observe standards of conduct that will contribute to the pursuit of academic goals and to the welfare of the ~~university~~ academic community. That responsibility includes, but is not limited to:
- (a) Practicing high standards of academic and professional honesty and integrity;
  - (b) Respecting the rights, privileges, and property of others ~~members of the academic community and visitors to the campus, and refraining from any conduct that would interfere with university functions or endanger the health, welfare, or safety of other persons;~~
  - (c) Refraining from any conduct that would substantially disrupt or materially interfere with university operations;
  - (d) Refraining from any conduct that would cause harm to or endanger the health, safety, or welfare of other persons; and
  - (e) ~~(e)~~ Complying with the rules, regulations, procedures, policies, standards of conduct, and orders of the university and its schools, colleges, and departments units and programs.
- (2) The disciplinary sanctions specified in WAC 478-120-040 may be imposed on any student or student organization found to have committed, to have assisted with the commission of, or to have attempted to commit any act of misconduct that is in violation of the general standards of conduct in subsection 1 of this section, or any of the prohibited conduct specified in WAC 478-120-024.
- (3) ~~Specific instances of misconduct include, but are not limited to:~~
- (a) ~~Conduct that intentionally and substantially obstructs or disrupts teaching or freedom of movement or other lawful activities on university premises or in connection with any university-sponsored event or activity and is not constitutionally and/or legally protected;~~
  - (b) ~~Physical abuse of any person, or conduct intended to threaten imminent bodily harm or to endanger the health or safety of any person on university premises;~~
  - (c) ~~Conduct on university premises constituting a sexual offense, whether forcible or nonforcible, such as rape, sexual assault, or sexual harassment;~~
  - (d) ~~Malicious damage to or malicious misuse of university property, or the property of any person where such property is located on university premises;~~
  - (e) ~~Refusal to comply with any lawful order to leave university premises or any portion thereof;~~
  - (f) ~~Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on university premises, except for authorized university purposes, unless prior written approval has been obtained from the university chief of police, or any other person designated by the president of the university (see WAC 478-124-020 (2)(e)) (legal defense sprays are not covered by this section);~~
  - (g) ~~the possession, use, distribution, or manufacture of controlled substances (as defined in chapter 69.50 RCW or Title 21 U.S.C. Sec. 802), or of alcohol, on university premises or during university-sponsored activities, where such possession, use, distribution, or manufacture is illegal under federal, state, or local law;~~
  - (h) ~~Intentionally inciting others to engage immediately in any unlawful activity, which incitement leads directly to such conduct on university premises;~~
  - (i) ~~Hazing, or conspiracy to engage in hazing, which includes:~~
    - (i) ~~Any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, 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 the university; and
- (ii) ~~Conduct associated with initiation into a student organization or living group, or any pastime or amusement engaged in with respect to an organization or living group not amounting to a violation of (i)(i) of this subsection, but including such conduct as humiliation by ritual act and sleep deprivation. Consent is no defense to hazing. Hazing does not include customary athletic events or other similar contests or competitions;~~
- (j) ~~Falsely reporting a violation of the student conduct code.~~
- (4) ~~Disciplinary action may be taken in accord with this chapter regardless of whether that conduct also involves an alleged or proven violation of law.~~
- (5) ~~An instructor has the authority to exclude a student from any class session in which the student is disorderly or disruptive. If the student persists in the disorderly or disruptive conduct, the instructor should report the matter to the dean of the school or college, or, at the University of Washington Bothell and Tacoma campuses, to the dean or director of the program in which the student is enrolled. (See WAC 478-120-030(3).)~~
- (6) ~~Nothing herein shall be construed to deny students their legally and/or constitutionally protected rights.~~

#### **478-120-024 Prohibited conduct.**

Specific instances of misconduct include, but are not limited to:

- (1) **Abuse of others** - Abuse of others includes assault and other forms of physical abuse of any person, or any conduct intended to threaten bodily harm or to endanger the health or safety of any person.
- (2) **Abuse of the student conduct process** - Abuse of the student conduct process includes:
- (a) Knowingly making false allegations of misconduct under this conduct code;
- (b) Attempting to coerce a person not to make a report or to participate in proceedings under this conduct code;
- (c) Attempting to influence the impartiality or participation of a member of a university disciplinary committee or the faculty appeal board, any conduct officer, or any reviewing officer; or
- (d) Influencing or attempting to influence another person to commit an abuse of the student conduct process.
- (3) **Academic misconduct** - Academic misconduct includes:
- (a) "Cheating," which includes, but is not limited to:
- (i) The use of unauthorized assistance in taking quizzes, tests, or examinations; or
- (ii) The acquisition, use, or distribution of unpublished materials created by another student without the express permission of the original author(s).
- (b) "Falsification," which is the intentional use or submission of falsified data, records, or other information, including, but not limited to, records of internship or practicum experiences or attendance at any required event(s). Falsification also includes falsifying scientific and/or scholarly research.
- (c) "Plagiarism," which is the submission or presentation of someone else's words, composition, research, or expressed ideas, whether published or unpublished, without attribution. Plagiarism includes, but is not limited to:
- (i) The use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement; or

- (iii) The unacknowledged use of materials prepared by another person or acquired from an entity engaged in the selling of term papers or other academic materials.
  - (d) Prohibited collaboration.
  - (e) Engaging in behavior specifically prohibited by an instructor in the course of class instruction or in a course syllabus.
  - (f) Multiple submissions of the same work in separate courses without the express permission of the instructor(s).
  - (g) Taking deliberate action to destroy or damage another's academic work in order to gain an advantage for oneself or another.
  - (h) The recording of instructional content without the express permission of the instructor(s), and/or the dissemination or use of such unauthorized recording.
- (4) **Acts of dishonesty** - Acts of dishonesty include:
  - (a) Knowingly furnishing false information to any university official;
  - (b) Impersonating, or providing false information in the name of, any university official;
  - (c) Forging, altering, or misusing any university document or record, or instrument of identification;
  - (d) Falsely claiming an academic credential; and
  - (e) Providing dishonest or misleadingly incomplete information or answers on application forms or in response to other official university requests for information.
- (5) **Aiding, solicitation, and attempt** - The following conduct is prohibited:
  - (a) Aiding or abetting another student or student organization in the commission of any misconduct prohibited by this conduct code;
  - (b) Requesting, hiring, or encouraging another person to commit any act of misconduct prohibited by this conduct code, either intending that the other person commit the misconduct or with the knowledge that the other person intends to commit the misconduct; or
  - (c) Attempting to commit any act of misconduct prohibited by this conduct code.
- (6) **Alcohol violations** - The unlawful possession, use, distribution, or manufacture of alcohol is prohibited. A conduct officer may elect not to initiate disciplinary action under this subsection against a student who, while in the course of helping another student seek medical assistance, admits to the unlawful possession or use of alcohol. Generally, no disciplinary action under this subsection will be initiated against a complainant or another reporting student, who admits to the possession or use of alcohol (in violation of this subsection) in connection with an incident of sexual misconduct.
- (7) **Computer abuses** - Computer abuses include, but are not limited to:
  - (a) Unauthorized use of university computer resources;
  - (b) Use of another person's university username and/or password;
  - (c) Use of university computing facilities and resources to interfere with the work of another student, an instructor, or other university official;
  - (d) Use of university computing facilities or resources to send intimidating, harassing, or threatening messages;
  - (e) Use of a computer or software to interfere with normal operations of the university's computing systems;
  - (f) Use of the university's computing facilities or resources in violation of any law, including copyright laws; and
  - (g) Any violation of the university's computer use policies.
- (8) **Creating a public nuisance in neighboring communities** - In furtherance of the university's interest in maintaining positive relationships with its surrounding communities, the university shall have the authority to hold students accountable under this conduct code for misconduct within any residential or commercial communities adjacent to a university campus as follows:

- (a) A student or a student organization may be subject to disciplinary proceedings if the university is made aware that the student or student organization has been contacted by a law enforcement agency regarding, and is determined to have engaged in, conduct that is in violation of a state statute or municipal ordinance and has a direct quality-of-life impact on community residents or businesses, including, but not limited to: creating a public nuisance due to noise, residential disturbance, intentional destruction of property, urinating in public, or criminal trespass.
  - (b) A first minor violation under paragraph (a) of this subsection will not subject the student or student organization to disciplinary sanctions under this conduct code; however the student or student organization may receive a letter regarding the expectations of university community members as residents in the area. This letter shall constitute a warning that repeated misconduct under this subsection may result in the imposition of disciplinary sanctions.
  - (c) A second violation of this subsection will result in the initiation of disciplinary proceedings under this conduct code.
- (9) **Discriminatory harassment** - Discriminatory harassment is language or conduct directed at a person because of the person's race, color, creed, religion, national origin, citizenship, sex, age, pregnancy, marital status, sexual orientation, gender identity or expression, disability, or military status that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or the person's ability to participate in or benefit from the university's programs, services, opportunities, or activities.
- (10) **Disruption or obstruction** -
- (a) Disruption or obstruction includes intentionally and substantially obstructing or disrupting, through words or conduct, the teaching or learning environment of any university educational setting, or any university functions or activities.
  - (b) An instructor has the authority to exclude a student from any individual class session or other academic activity in which the student is disorderly or disruptive and such conduct may also be subject of disciplinary proceedings under this conduct code.
- (11) **Domestic violence** - Domestic violence includes:
- (a) The infliction of physical harm, bodily injury, assault, or the fear of imminent physical harm, bodily injury or assault committed against a family or household member. Family or household members include:
    - (i) A current or former spouse or intimate partner;
    - (ii) A person with whom the person shares a child in common;
    - (iii) A person with whom one is cohabitating or has cohabitated; or
    - (iv) A person with whom one resides including a roommate, suitemate, or housemate.
  - (b) Sexual assault of one family or household member by another family or household member;  
or
  - (c) Stalking as defined in WAC 478-120-024 (23) of one family or household member by another family or household member.
- (12) **Drug violations** –
- (a) The possession, use, distribution, or manufacture of controlled substances (as defined in chapter 69.50 RCW or Title 21 U.S.C. Sec. 802) on university premises or during university sponsored activities where such possession, use, distribution, or manufacture is illegal under federal, state, or local law is prohibited.

- (b) The possession, use, distribution, or growing of marijuana in all forms is prohibited on university premises or during university sponsored activities.
  - (c) A conduct officer may elect not to initiate disciplinary action under this subsection against a student who, while in the course of helping another student seek medical assistance, admits to the unlawful possession or use of drugs. Generally, no disciplinary action under this subsection will be initiated against a complainant or another reporting student, who admits to the use or possession of drugs (in violation of this subsection) in connection with an incident of sexual misconduct.
- (13) **Failure to comply** - Failure to comply includes:
- (a) Any failure to comply with the directions of a university official acting in the performance of his or her duties and/or the failure to identify oneself to a university official when requested to do so.
  - (b) Any failure to comply with the rules, regulations, procedures, policies, standards of conduct, or any order or directive of the university or any of its schools, colleges, and departments.
  - (c) Any failure to comply with any interim measures implemented pursuant to WAC 478-120-038.
- (14) **Harassment or bullying** – Harassment or bullying is language or conduct that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the university's programs, services, opportunities, or activities.
- (15) **Hazing** –
- (a) Hazing includes any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person. Hazing activities may include, but are not limited to encouraging or promoting the abuse of alcohol; striking another person whether by use of any object or any part of one's body; causing someone to experience excessive fatigue or physical and/or psychological shock; and causing someone to engage in degrading or humiliating games or activities that create a risk of serious mental, emotional, and/or physical harm. Consent of a victim or victims is not a defense to an allegation of hazing.
  - (b) Hazing does not include generally accepted practice, training, and conditioning activities, or activities reasonably designed to test a participant's ability to meet eligibility requirements for established athletic events such as intramural or club sports, intercollegiate athletics, or other similar contests or competitions.
- (16) **Indecent exposure** – Indecent exposure includes the exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm, or is against generally accepted standards of decency. Breast feeding or expressing breast milk is not indecent exposure.
- (17) **Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons** -
- (a) Firearms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities are not permitted on university premises, except for authorized university purposes, or unless prior written approval has been obtained from the chief of the university police department, or any other university official designated by the president of the university.
  - (b) Firearms include, but are not limited to what are commonly known as air guns or rifles, BB guns, and pellet guns, and any instrument used in the propulsion of shot, shell, bullets, or other harmful objects by:
    - (i) the action of gunpowder or other explosives;
    - (ii) the action of compressed air; or

- (iii) the power of springs or other forms of propulsion.
  - (c) The exhibition or display of a replica of a dangerous weapon prohibited under this subsection is also prohibited if done in a manner, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.
- (18) **Relationship violence** – Relationship violence, also referred to as “dating violence,” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
- (a) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - (b) For the purposes of this definition, relationship or dating violence includes, but is not limited to sexual or physical abuse or the threat of such abuse.
  - (c) Relationship or dating violence does not include acts covered under the definition of domestic violence.
- (19) **Retaliation** – Retaliation includes engaging or attempting to engage in any action, directly or indirectly, including through a third party, that is intended to harass, intimidate, or improperly influence any person who:
- (a) Files a complaint, grievance, or allegation of misconduct under any university policy or rule or under any law;
  - (b) Participates in and/or cooperates with an investigation;
  - (c) Appears as a witness at a hearing; or
  - (d) Opposes an unlawful act, discriminatory practice, or policy.
- (20) **Sexual assault** –
- (a) Sexual assault is sexual contact with another person without, or that exceeds, that person's consent.
  - (b) For the purposes of this subsection, “sexual contact” includes:
    - (i) any touching of another person for the purpose of sexual gratification; or
    - (ii) any penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ, of another person.
  - (c) For the purposes of this subsection:
    - (i) “Consent” means that at the time of and throughout the sexual contact, there are actual words or conduct indicating freely given agreement between the parties to engage in the sexual contact.
      - (A) Past consent does not imply future consent.
      - (B) Consent given to one person does not imply consent given to another person.
      - (C) Consent to one sexual act does not imply consent to other sexual acts.
      - (D) Lack of resistance to sexual contact does not imply consent.
      - (E) Consent can be withdrawn at any time.
    - (ii) Consent cannot be given or granted by a person who, at the relevant time, cannot understand the facts, nature, extent, or implications of the sexual contact for any reason, including, but not limited to, being asleep, unconscious, mentally or physically impaired due to an intellectual or other disability, or mentally or physically incapacitated due to the effects of drugs or alcohol.
      - (A) Indicators that a person may be incapacitated by drugs or alcohol and therefore, cannot grant consent, include, but are not limited to: stumbling, falling down, an

inability to stand or walk on their own, slurred speech or incoherent communication, an inability to focus their eyes or confusion about what is happening around them, passing out, or vomiting.

(B) A failure to exhibit any of these behaviors does not necessarily mean that a person is capable of giving consent or is not incapacitated.

(d) Sexual contact is not consensual when force or coercion is threatened or used to gain acquiescence.

(i) Force includes the use of physical violence, physical force, threats, or intimidation to overcome resistance or gain agreement to sexual contact.

(ii) Coercion includes using pressure, deception, or manipulation to cause someone to agree to sexual contact against that person's will, without the use of physical force. Pressure can mean verbal or emotional pressure.

(e) Sexual assault also includes sexual contact with a person who is under the statutory age of consent in accordance with chapter 9A.44 RCW.

(f) Use of alcohol or drugs is not a valid defense to a violation of this subsection.

(21) **Sexual exploitation** - Sexual exploitation includes:

(a) Taking nonconsensual or abusive advantage of another for one's own sexual benefit, or for the sexual benefit of anyone other than the one being exploited;

(b) Compelling another by threat or force to engage in sexual conduct or activity;

(c) Transmitting, distributing, publishing, or threatening to transmit, distribute, or publish photos, video, or other recordings of a private and sexual nature where such transmission, publication, or distribution is without the consent of the subject(s) and is likely to cause emotional distress to the subject(s).

(d) Taking or making photographs, films, or digital images of the private body parts of another person without that person's consent;

(e) Causing or attempting to cause the impairment of another person to gain non-consensual sexual advantage over that person;

(f) Prostituting another person;

(g) Knowingly allowing another to surreptitiously watch otherwise consensual sexual activity; or

(h) Taking, making, or directly transmitting non-consensual video or audio-recordings of sexual activity.

(22) **Sexual harassment** – Sexual harassment is language or conduct of a sexual nature that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance or a person's ability to participate in or benefit from the university's programs, services, opportunities, or activities.

(23) **Stalking**

(a) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(i) Fear for the person's safety or the safety of others; or

(ii) Suffer substantial emotional distress.

(b) For the purposes of this subsection, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(c) For the purposes of this subsection, "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- (24) **Theft** – Theft is the taking of property or services without express permission of the owner. This includes, but is not limited to, taking, possessing, or aiding another to take university property or services, or property belonging to members of the university community.
- (25) **Unauthorized keys, entry or use** – The unauthorized possession, duplication, or use of keys (including conventional keys, key cards, or alphanumeric passcodes) to any university premises is prohibited, as is the unauthorized entry upon or use of university premises or property. Providing keys to an unauthorized person or providing access to an unauthorized person is also prohibited.
- (26) **Unauthorized recording** – The following conduct is prohibited:
- (a) Making audio, video, digital recordings, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy;
- (b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.
- (27) **Vandalism** – Vandalism includes maliciously damaging or misusing university property, or the property of any member of the university community.
- (28) **Violation of disciplinary sanctions** - The violation of any term or condition of any final disciplinary order issued under this conduct code, or the failure to complete a disciplinary sanction in the specified time frame, may be grounds for additional disciplinary action.
- (29) **Violation of law** – Any conduct that would constitute a violation of any federal, state, or local criminal law may be the subject of disciplinary proceedings under this conduct code.

#### **478-120-025 Off-campus conduct.**

The university shall have the authority to hold students accountable under the student conduct code for certain off-campus behavior (i.e., behavior that does not occur on university premises or in the context of a university-sponsored event or activity) that directly affects a university interest, in accordance with the provisions of the section.

- (1) A student may be subject to disciplinary proceedings under the student conduct code if:
- (a) The university is made aware that a court of competent jurisdiction has determined that such student has engaged in intentional unlawful conduct off-campus that involves the physical harm or abuse, or a direct threat of the physical harm or abuse, of any person, including but not limited to homicide, assault, kidnapping, armed robbery, arson, rape or sexual assault, criminal harassment, criminal stalking or the unlawful possession, use, storage or manufacture of weapons or destructive devices; and
- (b) The university determines that a significant university interest is affected.
- (2) A student may also be subject to disciplinary proceedings under the student conduct code if the university is made aware that the student has engaged in off-campus conduct that involves the physical harm or abuse, or the direct threat of physical harm or abuse, of another university student, or a university faculty or staff member. Disciplinary proceedings may be initiated under this section regardless of whether or not the incident is subject to criminal or civil proceedings.
- (3) In furtherance of the university's interest in maintaining a positive relationship with its surrounding community, the university shall also have the authority to hold students accountable under the student conduct code for conduct within the "North of 45th" residential community immediately adjacent to the Seattle campus (bounded by NE 45th Street on the south, 15th Ave NE on the west, 22nd Ave NE and north of 54th Street, Ravenna Ave NE on the east and Ravenna Park on the north and including all residences located on either side of each of the aforementioned streets) as follows:
- (a) A student may be subject to disciplinary proceedings under the code if the university is made aware that the student has been cited by the Seattle police or the university police for, and is

- determined to have committed, a violation of any state statute or city of Seattle municipal ordinance prohibiting misconduct that has a direct and significant quality-of-life impact on community residents, including but not limited to, creating a public nuisance due to noise, theft, intentional destruction of property, urinating in public, or criminal trespass.
- (b) ~~A first violation under (a) of this subsection will not subject the student to disciplinary sanctions under WAC 478-120-040 if the student voluntarily meets with a representative of the office of the vice-president for student life to receive information and counseling regarding his or her responsibilities as a university community member and as a resident in the area. A second violation will not be subject to disciplinary sanctions if the student involved agrees to participate, in good faith, in a mediation with the person or persons affected by the misconduct under a mediation protocol established by the office of the vice-president for student life.~~
- (4) ~~Nothing herein shall be construed as being intended to protect any person or class of persons from injury or harm, or construed to deny students their legally and/or constitutionally protected rights.~~

#### **478-120-026 Reporting violations of the student conduct code and initiating conduct proceedings.**

- (1) Persons who believe that a violation of this conduct code has been committed may contact and make a report to the vice president for student life at UW Seattle, or the chancellors of UW Bothell or Tacoma, or their authorized delegates, which includes the director of community standards and student conduct at UW Seattle, the dean of student affairs at UW Bothell and the dean of student engagement at UW Tacoma.
- (2) Violations involving academic misconduct should be reported to the dean of the appropriate school or college at the University of Washington Seattle, or the dean or program director at the University of Washington Bothell and Tacoma, or their authorized delegates.
- (3) Only the following university officials may initiate disciplinary action under this conduct code:
- (a) The vice president for student life at UW Seattle;  
 (b) The chancellors at UW Bothell and Tacoma;  
 (c) Deans of a school or college (including the graduate school) at UW Seattle; and  
 (d) Deans or directors of any school or program at UW Bothell or Tacoma.

The above named university officials may delegate the authority to initiate disciplinary proceedings to members of their respective staffs and to students. They may also establish student or student-faculty-staff hearing bodies to advise or to act for them in disciplinary matters.

- (4) The university may hold the granting or conferral of a respondent's degree if the respondent is the subject of a preliminary investigation or other disciplinary proceedings under this conduct code until at least the conclusion of all disciplinary proceedings.

#### **478-120-030 General procedures for disciplinary sanctions.**

- (1) This section describes the general process under the student conduct code for enforcing the university's rules, regulations, procedures, policies, standards of conduct, and orders. The specific procedures to be used at each step of the process are described in the following sections of this chapter. In all situations, whether handled formally or informally, basic standards of fairness will be observed in the determination of:
- (a) ~~The truth or falsity of the charges against the student;~~  
 (ab) Whether the alleged misconduct violates this code; and if so,  
 (be) The sanctions to be imposed, if any.

The criteria for judging student misconduct shall include, but not be limited to, the standards of conduct as stated in ~~WAC 478-120-020 and 478-120-025-025~~ this conduct code. Informal hearings and hearings before the university disciplinary committees shall be conducted as brief adjudicative

~~proceedings use the procedures in under~~ chapter 34.05 RCW governing ~~brief adjudicative proceedings~~. Formal hearings conducted by the faculty appeal board shall follow the procedures required by chapter 34.05 RCW for formal adjudicative proceedings. Informal settlements may be conducted under the authority of RCW 34.05.060.

- ~~(2)~~ Persons who believe that a violation of the student conduct code has been committed should contact the vice-president for student life at the University of Washington Seattle campus, or the chancellor of the University of Washington Bothell or Tacoma campuses, whichever is appropriate.
- ~~(3)~~ Only the vice-president for student life, the dean of the school or college at the University of Washington Seattle or, at the University of Washington Bothell and Tacoma campuses, the dean or director of the program in which a student is enrolled or the chancellors of the University of Washington Bothell and Tacoma campuses, may initiate disciplinary proceedings against a student under this code of conduct. (See WAC 478-120-050.) The deans, the vice-president for student life, or the chancellors of the University of Washington Bothell and Tacoma campuses may delegate the authority to initiate disciplinary proceedings consistent with this chapter to members of their staffs and to students. They may also establish student or student-faculty hearing bodies to advise or to act for them in disciplinary matters. The person initiating a disciplinary proceeding shall be referred to as the initiating officer.
- ~~(2)(4)~~ The initiating conduct officer will begin a disciplinary proceeding by holding, or directing a member of his or her staff to hold, an informal hearing with the respondent student charged with misconduct consistent with WAC 478-120-065. Based on this informal disciplinary hearing, the conduct initiating officer may choose to exonerate the respondent, dismiss the action, impose an appropriate sanction, and/or refer the matter to the appropriate university disciplinary committee. (See WAC 478-120-065.) If the conduct initiating officer identifies a potential or existing exceptional circumstance, as defined in WAC 478-120-100 (3)(b)(i), "Exceptional circumstances exist when:  
(A) The sanction of dismissal has been recommended; or  
(B) The student has been charged with hazing; or  
(C) The sanction of restitution (in excess of three hundred dollars) has been recommended; or  
(D) Suspension has been recommended," the matter shall be referred directly to the faculty appeal board. (See WAC 478-120-100.)
- ~~(3)(5)~~ In cases not involving an allegation of sexual misconduct, respondents ~~Students~~ have the right to appeal any sanction imposed at an informal hearing to the appropriate university disciplinary committee, except that when such sanction identifies an existing or potential exceptional circumstance as defined in WAC 478-120-100 (3)(b)(i), the matter shall be referred directly to the faculty appeal board. Appeal rights in cases involving an allegation of sexual misconduct are provided for in WAC 478-120-137.
- ~~(4)(6)~~ Any decisions of the university disciplinary committees may be appealed to the faculty appeal board. All decisions of the university disciplinary committees identifying existing or potential exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) shall be referred directly to the faculty appeal board. In addition, the university disciplinary committees may, at any time, at their discretion, refer a matter directly to the faculty appeal board consistent with WAC 478-120-095. The faculty appeal board performs distinct functions. In most cases, the faculty appeal board conducts an administrative review. In certain cases (defined as described in WAC 478-120-100(3) and WAC 478-120-115(1)), the faculty appeal board conducts a formal hearing.
- ~~(5)(7)~~ Any decision based on a formal hearing conducted by the faculty appeal board may be appealed to the president of the university or the president's delegate for a final review. All orders of dismissal shall be reviewed by the president or the president's delegate. Orders entered by the president or the president's delegate are final. (See WAC 478-120-125.)
- ~~(6)(8)~~ The president or delegate, or chancellors or their delegates, may take emergency disciplinary action when a student's conduct threatens the health, welfare, or safety of the university community or members thereof or poses an ongoing threat of substantially disrupting or materially interfering with university activities or operations. (See WAC 478-120-140.)

~~(9)~~ When questions of mental or physical health are raised in conduct cases, the dean, the vice-president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses or their delegates, the university disciplinary committees, or the faculty appeal board may request the student to appear for examination before two physician consultants designated by the dean of the school of medicine. The physician consultants may call upon the student health center for any other professional assistance they deem necessary. After examining the student and/or consulting with the student's personal physician, the physician consultants shall make a recommendation to the dean, the vice-president for student life, the chancellor of the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates, the appropriate university disciplinary committee, or the faculty appeal board as to whether the case should be handled as a disciplinary matter or as a case for medical or other treatment. Any decision made based upon the recommendation of the physician consultants may be appealed in accordance with the provisions of this chapter.

~~(7)~~(10) The following persons conducting proceedings under this chapter shall have the authority to issue protective orders and subpoenas: ~~deans~~, or at the University of Washington Bothell and Tacoma campuses, the dean or director of the program in which the student is enrolled, the vice-president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses, or the chairs of their respective university disciplinary committees, the chair of the faculty appeal board, and the president or his or her delegate.

~~(8)~~(11) In a case involving an ~~alleged~~ allegation of sexual misconduct offense, the complainant ~~accuser~~ and the respondent ~~accused~~ are entitled to the same opportunities to have others present during a disciplinary hearing and they shall both be informed of the outcome of such disciplinary proceeding.

~~(9)~~(12) Any final order resulting from a disciplinary proceeding shall become a part of the respondent's student's disciplinary record, ~~unless the student is exonerated and be maintained in accordance with.~~ (See WAC 478-120-145.)

~~(10)~~(13) In accord with the Family Educational Rights and Privacy Act FERPA and pursuant to RCW 34.05.250, all hearings conducted under this chapter generally will be held in closed session out of respect for the privacy of all the students involved. However, the students involved may waive in writing this requirement and request a hearing in open session, and the conduct officer ~~initiating~~ or presiding officer shall conduct the hearing in a room that will accommodate a reasonable number of observers. The conduct officer ~~initiating~~ or presiding officer may exclude from the hearing room any persons who are disruptive of the proceedings and may limit the number who may attend the hearing in order to afford safety and comfort to the participants and orderliness to the proceedings. To ensure the privacy of all students involved, no cameras or recording devices shall be permitted except for the official recording by the university.

#### **478-120-032 Participation of advisors and attorneys.**

Any party and, in any case involving an allegation of sexual misconduct, a complainant, may, at their own expense, be accompanied by an advisor and/or an attorney to any proceeding conducted under this conduct code. Persons admitted to practice law in the State of Washington may advise, but may not participate in an informal hearing and in a hearing before a university disciplinary committee, and may represent a party at a hearing before the faculty appeal board. The chair of a university disciplinary committee or the faculty appeal board or a conduct officer in an informal hearing has the discretion to impose reasonable conditions upon the participation of an advisor and/or an attorney.

**478-120-034 Service of notices and orders and time limits.**

- (1) Service of all university notices of hearing, initial orders, final orders, and orders on reconsideration shall be by electronic mail addressed to the respondent's, and in any case involving an allegation of sexual misconduct, the complainant's university-issued email address, or such alternative email address as may have been provided to the university in writing. Service by electronic mail is complete at the moment the email is sent to such address. In the alternative, service of university notices of hearing, initial orders, final orders, and orders on reconsideration may also be accomplished by personal service or by posting it in the United States mail, properly addressed, and postage prepaid. Service by mail is complete upon deposit in the U.S. mail.
- (2) Students have an ongoing obligation to update their address via MyUW.
- (3) The time limits for appealing an initial order shall be determined based upon the date of service of the initial order. The time limit for seeking judicial review of a final order shall be determined based upon the date of service of the final order, except as otherwise provided in this chapter.
- (4) In computing any period of time under this conduct code, the day of service of any order, notice, or other document is not counted. The last day of the applicable period of time is counted. If the last day of the applicable period of time falls on a Saturday, Sunday, or official state holiday (which includes the day after Thanksgiving), the period ends on the next business day.

**478-120-036 Standard and burden of proof.**

The applicable standard of proof in all disciplinary hearings is the "preponderance of evidence" standard. This means that, in order for an respondent to be held responsible for a violation of this conduct code, the conduct officer, the university disciplinary committee, or the faculty appeal board must conclude, based on all of the evidence in the record, that it is more likely than not that the respondent engaged in an act or acts of misconduct. The burden of proof in a hearing before a university disciplinary committee or the faculty appeal board rests with the party seeking to establish that the violation occurred.

**478-120-038 Interim Measures.**

- (1) After receiving a report of alleged sexual misconduct or other serious misconduct, the university may implement interim measures which may include, but are not limited to:
  - (a) A no-contact order prohibiting direct or indirect contact, by any means, with a complainant, a respondent, a reporting student, other specified persons, and/or a specific student organization;
  - (b) Reassignment of on-campus housing; or
  - (c) Changes to class schedules, assignments, or tests schedules.
- (2) Interim measures will remain in place until lifted or modified by the university official who implemented the interim measures.
- (3) Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for, a violation under this conduct code.

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**478-120-040 Disciplinary sanctions.**

- (1) One or more of the following disciplinary sanctions may be imposed for any violations of the student this conduct code:
  - (a) ~~(1) Disciplinary warnings and reprimands - Action may be taken to warn or to reprimand a student for violation of university rules, regulations, procedures, policies, standards of conduct, or orders. Warnings and A respondent may be issued a written reprimand. Reprimands must always be made in writing and shall include a statement that continuation~~

- or repetition of the specific conduct or other misconduct ~~may result in~~ will normally result in one or more of the more serious additional disciplinary sanctions: ~~Restitution, disciplinary probation, suspension, or dismissal.~~
- (b)(2) ~~Restitution - An individual student may be required to make restitution for damage or other loss of property and for injury to persons. A f~~Failure to pay, or to make in writing university-approved arrangements to pay, restitution will result in a hold being placed on cancellation of the student's registration and will preventing the student from registering at with the university.
- (c)(3) ~~Disciplinary probation - A respondentstudent may be placed on disciplinary probation (meaning formal conditions are imposed on thea respondentstudent's continued attendance) for violation of university rules, regulations, procedures, standards of conduct, or orders. The time period and conditions, if any, for the disciplinary probation and any conditions shall be specified. Disciplinary probation serves as a warning to a respondentstudent that further misconduct will raise the question of suspension or dismissal from the university. Failure to fulfill conditions of the disciplinary probation in a timely manner will extend the probationary period (and the conditions) and may result in additional disciplinary sanctions, including possible suspension or dismissal.~~
- (d) Loss of privileges - A respondent may be denied specified privileges for a designated period of time such as the privilege to participate in a particular campus activity and may be restricted from any or all university premises based on the misconduct for a specific duration.
- (e)(4) Suspension - A respondentstudent may be suspended (i.e., temporarily separated) from the university for a specified period of time violation of university rules, regulations, procedures, policies, standards of conduct, or orders. The time period and c-Conditions of if any, for the suspension may be imposed and shall will be specified. Except as otherwise specified in the disciplinary order, all conditions must be fulfilled before the end of the suspension period. Failure to fulfill all conditions of suspension in a timely manner will extend the suspension period and any conditions, and may result in additional disciplinary sanctions. Suspension serves as a warning that further misconduct will raise the question of dismissal from the university. The university may place a hold on a suspended student's registration and may withhold the conferral of the student's degree, during the suspension period.
- (f)(5) ~~Dismissal - A respondentstudent's enrollment may be dismissed (i.e. permanently separated) from the university may be terminated for violation of university rules, regulations, procedures, policies, standards of conduct, or orders.~~
- (g)(6) Forfeiture Sanctions for hazing - In addition to other sanctions, a student who participates in hazing of another shall forfeit any entitlement to state funded grants, scholarships, or awards for a specified period of time.
- (7) ~~A suspension or dismissal is considered a serious sanction and will be imposed only after the completion of the formal due process review provided for in this code.~~
- (2) In determining an appropriate sanction for a violation of this conduct code, the seriousness of the misconduct, the impact on the university community, and a respondent's past disciplinary record will be considered. The use of alcohol or drugs by a respondent will not be considered a mitigating factor in imposing discipline.
- (3) If a respondent withdraws from the university (or fails to reenroll) before completing a sanction, the sanction must be completed prior to or upon the respondent's reenrollment, depending on the nature of the sanction. Completion of disciplinary sanctions may be considered in applications for readmission to the university.

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#### **478-120-050 Jurisdiction.**

- (1) ~~The vice president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses, or their delegates, may initiate any disciplinary action related to violations of any of the university's rules, regulations, procedures, policies, standards of conduct, or orders. Jurisdiction in such cases may be transferred to the dean of the school or college, or at the University of Washington Bothell and Tacoma campuses, to the dean or director of the program in~~

~~which the student is enrolled if the alleged misconduct bears upon the student's fitness to continue in the school or college.~~

- (2) ~~Additionally, the dean of each college or school, including the graduate school, or the dean's delegate, or the dean or director of programs in which the student is enrolled on the University of Washington Bothell or Tacoma campuses may initiate any disciplinary action:~~
- (a) ~~Related to violations of university rules, regulations, procedures, policies, standards of conduct, and orders which pertain to that particular campus, college or school, or at the University of Washington Bothell and Tacoma campuses, the program in which the student is enrolled; and~~
  - (b) ~~Related to violations of rules, procedures, policies, and standards of conduct of that particular campus, college or school, or at the University of Washington Bothell and Tacoma campuses, the program in which the student is enrolled. The student academic grievance procedure is a separate procedure and is set forth in the Executive Order No. 58 (graduate school students should also refer to Graduate School Memorandum No. 33). Violations involving academic misconduct should be reported to the dean of the appropriate school or college, or dean or program director at the University of Washington Bothell or Tacoma campuses.~~
- (3) ~~Other departments of the university have proceedings separate and distinct from the student conduct code. For example:~~
- (a) ~~Campus parking and traffic regulations are under the general jurisdiction of the transportation services department and the police department at the University of Washington Seattle campus and under the jurisdiction of public safety officers at the University of Washington Bothell and Tacoma campuses. (See chapters 478-116, 478-117 and 478-118 WAC.)~~
  - (b) ~~The library fines appeals committee has the authority to consider appeals of library charges. (See chapter 478-168 WAC.)~~

#### **478-120-065 Informal disciplinary hearings.**

- (1) A dean, the vice-president for student life, or, at the University of Washington Bothell and Tacoma campuses, the chancellors or the dean or director of the program in which the student is enrolled, or their delegates, may initiate a disciplinary proceeding by conducting, or directing a member of his or her staff to conduct, an informal hearing with the ~~student accused of misconduct~~ respondent. This informal disciplinary hearing may be nothing more than a face-to-face meeting between the ~~conduct initiating officer or staff person and the respondent student~~, and no special notice of the meeting is required. The purpose of this informal disciplinary hearing is to provide an opportunity for the respondent student to respond to allegations of misconduct before disciplinary action is taken, ~~and t~~ The respondent student waives any rights to an informal hearing by his or her failure to attend and the conduct officer may place a hold on a respondent's registration and/or transcript, or make a decision and issue an initial order without the input of the respondent.
- (2) During an informal disciplinary hearing, the ~~student~~ respondent must be provided with the following information:
- (a) An explanation of the student conduct process;
  - (ba) ~~The alleged misconduct; and the reasons for the university's belief that the student engaged in the misconduct;~~
  - (cb) The specific section(s) of the student conduct code allegedly violated; and
  - (de) The possible sanctions that may be imposed.
- (3) Following the informal disciplinary hearing, the conduct officer may conduct further investigation, including but not limited to, additional interviews of the complainant, the respondent, and any witnesses.
- (4) Based on the findings of the an informal hearing and any further investigation, the conduct initiating officer shall enter in writing one of the following orders:

- (a) An order exonerating the ~~respondent student~~, or dismissing the disciplinary proceeding if it appears that there has been no misconduct, or finding that a preponderance of the evidence does not establish a violation of this conduct code;
  - (b) An initial order (subject to appeal and/or review as provided by this conduct code), imposing one or more of the a disciplinary sanctions specified in WAC 478-120-040;
  - (c) An order referring the matter to the appropriate university disciplinary committee; and/or
  - (d) An order referring the matter ~~directly~~ to the faculty appeal board because exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) may exist.
- (5) (a) If the initial order imposes a sanction and exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) exist, the matter shall be referred ~~directly~~ to the faculty appeal board and the ~~respondent student~~ and in any case involving an allegation of sexual misconduct, a complainant, shall be informed that he or she has the right to request a formal hearing according to the procedures set forth in WAC 478-120-075(3). Supplemental procedures applicable to cases involving an allegation of sexual misconduct are set forth in WAC 478-120-137.
- (b) If the initial order imposes a sanction, but exceptional circumstances do not exist and the case does not involve an allegation of sexual misconduct, then the ~~respondent student~~ shall ~~must~~ be informed that he or she has twenty-one calendar days from the date of service of the initial order (~~or twenty-five calendar days from the date of the mailing of the initial order~~) to request a hearing before the appropriate university disciplinary committee. If the ~~student respondent~~ chooses not to appeal, the order becomes the final order.
- (6) Within ten days of the conclusion of the ~~conduct officer's hearing and any associated investigations~~, the ~~respondent student~~ and in any case involving an allegation of sexual misconduct, the complainant, shall be provided with a written order which shall include a statement of the decision, the reasons for the decision, and information about appealing the decision. No unfavorable action may be taken against the ~~respondent student~~ until the ~~respondent student~~ has been given such notice and information. ~~In a case involving an alleged sexual offense, both the accuser and the accused shall be informed of the outcome of that hearing.~~ In a case where the ~~respondent student~~ is a minor, the disciplinary sanctions imposed may be reported to the ~~respondent's student's~~ parents or legal guardian at the discretion of the conduct initiating officer.
- ~~(7) A student may request a hearing by the appropriate university disciplinary committee at any time during these informal proceedings. If such a request is made, the matter shall be referred to the appropriate university disciplinary committee.~~
- ~~(7)(8)~~ The official record of this informal hearing shall consist of all documents prepared or considered by the dean, the vice-president for student life, or, at the University of Washington Bothell and Tacoma campuses, the chancellors, or the dean or director of the program in which the ~~student respondent~~ is enrolled, or their delegates, with regard to the dispute at hand.

#### 478-120-075 – Appeals.

Any initial order may be appealed by timely submission of a written petition to the appropriate body. An order only referring a matter from one hearing body to another, not determining the matter on its merits, is not an initial order.

- (1) If a ~~student does not~~ no appeal is filed to with the appropriate body within twenty-one days of service of the initial order (~~or within twenty-five calendar days of the date when the university mailed the initial order to the student~~), the right to appeal is waived and the order becomes final, except that any initial order imposing the sanction of dismissal shall be subject to review in accordance with WAC 478-120-125.
  - ~~(a) All initial orders shall be hand delivered or delivered by mail.~~

- ~~(b) Any student involved in a disciplinary hearing is required to provide his or her current and accurate address to the office of the vice-president for student life or the office of the chancellor for the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates.~~
- (2) All petitions for appeal must be made in writing to the appropriate authority (the appropriate chair of one of the university disciplinary committees (Seattle, Bothell or Tacoma), the chair of the faculty appeal board, or the president). The petition must state the reasons for the appeal and indicate points of disagreement with the initial order.
- (3) If a student wishes to request a formal hearing before the faculty appeal board, the student's written petition for appeal must also state that a formal hearing is being requested and must identify the specific exceptional circumstances (as defined in WAC 478-120-100 (3)(b)(i)) warranting such a hearing. When conducting administrative reviews of initial orders ~~informal hearing~~, the faculty appeal board shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal disciplinary hearing.
- (4) Additional provisions regarding appeals in cases involving an allegation of sexual misconduct are set forth in WAC 478-120-137.
- (45) After conducting the appropriate review, the appeal body ~~or the president~~ may sustain, reduce, or vacate the sanction imposed by the initial order, except if that review is in the form of a formal hearing before the faculty appeal board, that board may increase any sanction.
- (6) Review by the president or the president's delegate shall be conducted in accordance with WAC 478-120-125.
- ~~(57)~~ Only the president or the president's delegate may issue a final order of dismissal.
- ~~(68)~~ Sanctions, if any, will be imposed only after an order becomes final, except for actions taken under WAC 478-120-140.

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#### **478-120-085 The university disciplinary committees.**

Each University of Washington campus shall have its own university disciplinary committee. The university disciplinary committees shall consist of a nonvoting chair, at least three voting faculty members, and at least three voting student members. The committees shall be maintained for the purpose of providing hearings for disciplinary actions that have been initiated by the deans or, at the University of Washington Bothell and Tacoma campuses, the dean or director of the program in which a respondent student is enrolled, the vice-president for student life at the University of Washington Seattle campus, the chancellors of the University of Washington Bothell and Tacoma campuses, or their delegates.

- (1) The president of the University of Washington Seattle campus and the chancellors of the University of Washington Bothell and Tacoma campuses shall designate a member of the faculty or administration to serve as chair of each respective university disciplinary committee for a term of one year. All chairs may be reappointed for consecutive terms.
- (a) The chairs shall ensure that all procedural safeguards and guidelines are followed. Accordingly, the chairs shall decide all procedural questions that arise in relation to hearings, including rulings on evidence (as defined in WAC 478-120-095(3)) and challenges to the impartiality of committee members. The chairs shall have the discretion to regulate all aspects of the proceedings.
- (b) The chairs shall take whatever steps are necessary to ensure that hearings are conducted in a safe and orderly manner.
- (2) The ~~three~~ voting faculty members of each university disciplinary committee shall be selected ~~at random from~~ by the faculty senate at the University of Washington Seattle, or at the University of

Washington Bothell and Tacoma campuses, their respective faculty assembly or organization to serve one-year terms. Voting faculty members may ~~not~~ be reappointed to consecutive terms.

- (a) ~~Panels of eligible faculty members shall be randomly selected to serve on the committees in the order in which they were selected, except that at the University of Washington Seattle each faculty member of the committees must represent a different faculty senate group.~~
  - (b) Faculty members must have been members of the faculty for at least one year and hold the position of assistant professor or higher in order to be eligible to serve as voting members of the university disciplinary committees.
- (3) The ~~three~~ voting student members of the university disciplinary committees shall be selected ~~at random~~ from each student body to serve one-year terms. Student members of the committees may not be reappointed.
- (a) ~~Panels of eligible~~For each university disciplinary committee, students shall be selected randomly from a pool of students who express interest in serving on the committee ~~the entire full-time student body to serve as committee members or alternates in the order in which they were selected, except that~~ and at the University of Washington Seattle at least one member must be a professional or graduate student and the other ~~two~~ members must represent different undergraduate classes.
  - (b) To be eligible to serve on the university disciplinary committees, students must be full-time and in good standing with the university.
- (4) In addition to the chairs, a quorum shall be two faculty members and two student members. The chairs shall select alternates from the panels of eligible faculty or students as needed to produce a quorum.
- (5) Committee members may be disqualified from a particular hearing for bias, prejudice, conflict of interest, or any other reason which may prevent him or her from serving as an impartial judge of the matter before the committees.
- (a) Committee members may excuse themselves for any of the causes set forth in this section by submitting a written statement to the appropriate committee chair stating facts and reasons for the disqualification.
  - (b) A student before any of the university disciplinary committees may challenge the impartiality of a committee member by written petition. The appropriate chair shall determine whether to grant the petition and excuse the committee member from the case, and shall state the facts and reasons for that determination in writing.
  - (c) Any person who has been delegated the authority to initiate disciplinary proceedings is disqualified from serving as a member of the university disciplinary committees.
- (6) The appropriate chair may relieve a member of his or her university disciplinary committee from serving on that committee for a particular case, for a specific period of time, or for the rest of the year after the member submits a written request to the chair.
- (7) Members of the university disciplinary committees shall begin their terms on the first day of classes of ~~winter-autumn~~ quarter. Those terms shall expire on the first day of classes of the next autumn ~~winter~~ quarter, except that cases in process shall be continued until a decision is reached. ~~The new panels of committee members shall be identified by the outgoing chairs, or by the person designated by the appropriate chair, through random procedures established by the chair.~~

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#### **478-120-095 Hearing before the university disciplinary committees.**

The purpose of a hearing before a university disciplinary committee is to provide all parties with an opportunity to present evidence and argument before disciplinary sanctions are imposed on a respondent student. A university disciplinary committee may not hear any cases involving an allegation of sexual misconduct. Based on the evidence presented at this hearing, the committee shall determine whether the respondent student has engaged in the alleged misconduct. If there is a finding of misconduct, the committee shall then determine the appropriate sanction to be imposed.

- (1) When a hearing is scheduled before a university disciplinary committee, the chair of the appropriate committee shall provide the respondent student with written notice of the following information:
  - (a) The time and place of the hearing;
  - (b) The allegation(s) of misconduct against the respondent student;
  - (c) A list of all witnesses who may be called to testify;
  - (d) A description of all documentary and real evidence to be presented at the hearing, including a copy of the respondent's ~~his or her~~ disciplinary file; and
  - (e) The sanctions that may be imposed at the hearing if the allegations of misconduct are found to be true.
- (2) The chair of each committee shall adhere to the following procedures at all disciplinary hearings:
  - (a) The respondent student shall be provided with a reasonable opportunity (at least seven days) to gather evidence, contact witnesses, and prepare a defense for the hearing.
  - (b) The respondent student may be accompanied by an advisor and/or an attorney of the respondent student's choice.
  - (c) The respondent student is entitled to hear all testimony and examine all evidence that is presented at the hearing. In response, the respondent student may present evidence and witnesses on his or her own behalf and may ask questions of any other witnesses.
  - (d) No respondent student shall be compelled to give self-incriminating evidence.
- (3) Evidence shall be admissible at the hearing if it is the type of evidence that reasonably prudent members of the university community would rely upon in the conduct of their affairs.
- (4) The conduct initiating officer (the appropriate dean, or at the University of Washington Bothell and Tacoma campuses, dean or director of the program in which the respondent student is enrolled, the vice-president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses, or their delegates) must prove by a preponderance of the evidence presented at the hearing that the respondent student has engaged in the alleged misconduct. The committee shall base its factual determination solely on the evidence presented at the hearing.
  - (a) Decisions of the university disciplinary committee will be made based on a simple majority vote of the committees.
  - (b) If a university disciplinary committee cannot reach a decision by simple majority vote, an order shall be entered referring the matter to the faculty appeal board. In cases where the faculty appeal board determines that ~~Where~~ exceptional circumstances may exist, the respondent student shall be notified of the right to request a formal hearing. Otherwise, the faculty appeal board shall make a decision based upon its review of the record of the hearing before the university disciplinary committee ~~conduct an administrative review as provided under WAC 478-120-100 (1) and (2).~~
- (5) If at any time after a matter has been referred to a university disciplinary committee the appropriate chair determines that the matter should properly be before the faculty appeal board, the chair may refer the matter to the faculty appeal board and shall provide the student respondent with written notice of the referral ~~and of the opportunity to request a formal hearing if exceptional circumstances exist. (See WAC 478-120-100 (3)(b)(i)).~~ Any case involving an allegation of sexual misconduct shall be referred to the faculty appeal board.
- (6) If the committee determines that the respondent student has violated the university's rules, regulations, procedures, policies, standards of conduct, or orders, it shall then determine the appropriate sanction to be imposed. When determining the appropriate sanction, the committee shall consider the factors listed in WAC 478-120-040(2) ~~review the evidence presented at the hearing and the student's past record at the university.~~
- (7) The chair of the appropriate university disciplinary committee shall provide the student respondent with a written statement of the committee's decision within ten days of the conclusion of the hearing. This written statement shall include the committee's factual findings, the conclusions that

have been drawn from those findings, the reasons for those conclusions, and the sanctions, if any, to be imposed. If sanctions are imposed, the ~~student-respondent~~ must also be informed of the appropriate procedures for appealing the committee's decision to the faculty appeal board. ~~In a case involving an alleged sexual offense, both the accuser and the accused shall be informed of the outcome of the hearing.~~ In a case where the ~~respondent-student~~ is a minor, the written statement of the committee's decision may be reported to the ~~respondent's student's~~ parents or legal guardian at the discretion of the chair of the appropriate university disciplinary committee.

- (8) This written statement of the committee's decision shall be the committee's initial order. ~~If the student chooses not to no appeal is filed,~~ the initial order of the appropriate university disciplinary committee becomes the final order at the end of the appeal period set forth in WAC 478-120-075(1) ~~except that orders of dismissal shall be referred to the president.~~
- (9) ~~A respondent-The student~~ may choose to present evidence to the chair of the appropriate university disciplinary committee rather than at a hearing before the full committee. The ~~respondent's student's~~ waiver of the right to a hearing before a university disciplinary committee must be submitted in writing to the chair of the appropriate committee. The chair will submit the ~~respondent's student's~~ evidence and arguments to the full committee and the committee will make its decision based on the chair's report.
- (10) All proceedings of the committees will be conducted with reasonable dispatch and be terminated as soon as possible, consistent with fairness to all parties involved. The chair shall have the discretion to continue the hearing.
- (11) An adequate summary of the proceedings will be kept. Such a summary shall include all documents that were considered by the appropriate committee and may include an audio tape recording of the testimony and any other documents related to the hearing.
- ~~(12) A report of a university disciplinary committee shall, upon written request and release by the student or students involved, and subject to the requirements of the Family Educational Rights and Privacy Act, be made available to members of the university community through the vice president ((and vice provost)) for student life, or the office of the chancellor at the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates.~~

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#### **478-120-100 Faculty appeal board.**

There shall be a single faculty appeal board which will serve all University of Washington campuses. The faculty appeal board shall be composed of at least seven members of the faculty to be appointed by the chair of the faculty senate after consultation with the faculty council on student affairs, to include one faculty member from each of the University of Washington Bothell and Tacoma campuses. The chair of the faculty senate shall appoint one of the members to be the chair of the faculty appeal board. The faculty appeal board shall conduct either administrative reviews or formal hearings and the procedures to be used shall depend on the nature of the appeal before the board. Cases may be heard by the entire board or by panels of no fewer than three board members.

- (1) The faculty appeal board may conduct an administrative review when exceptional circumstances do not exist or ~~the a~~ student has not requested a formal hearing in writing.
- (2) The procedures for conducting such administrative review are set forth in WAC 478-120-105. The chair shall maintain a record of all administrative reviews conducted by the faculty appeal board. At a minimum, such a record shall include all documents that were considered by the board and may include an audio tape recording of all testimony and all other documents related to the review.
- (3) The faculty appeal board shall conduct a formal hearing when:
  - (a) The respondent student, and/or, in a case involving an allegation of sexual misconduct, a complainant, requests a formal hearing before the faculty appeal board in writing setting forth the exceptional circumstances that exist (see below); and

- (b) The chair reviews the student's written request and determines that exceptional circumstances do exist. Additionally, the faculty appeal board may conduct a formal hearing in other circumstances as the board deems appropriate. If the faculty appeal board does not conduct a formal hearing, it shall conduct an administrative review of the prior decision.
- (i) Exceptional circumstances exist when:
- (A) The sanction of dismissal has been recommended; or
  - (B) The student has been charged with hazing; or
  - (C) The sanction of restitution (in excess of three hundred dollars) has been recommended; or
  - (D) Suspension has been recommended.
- (ii) If the faculty appeal board decides not to grant a ~~student's~~ written request for a formal hearing, the chair shall provide the parties student with a written copy of the board's decision ~~and a brief statement of the reasons for denying the petition request for a formal hearing~~ within ninety days as specified in WAC 478-120-115(23).
- (c) The faculty appeal board shall also conduct a formal hearing as provided in the supplemental provisions set forth in WAC 478-120-137 for cases involving an allegation of sexual misconduct.
- (4) If a matter is referred directly to the faculty appeal board and there is no initial order, then the faculty appeal board shall determine whether exceptional circumstances exist or could exist. If exceptional circumstances exist or could exist, then the board shall notify the respondent student and in any case involving an allegation of sexual misconduct, the complainant, in writing that he or she has twenty-one days from the date of service of the notice ~~or twenty-five days from the date of mailing the notice~~ to request a formal hearing. ~~If no such the student fails to make such a request is made~~, any right to a formal hearing is waived.
- (5) Formal hearings conducted by the faculty appeal board shall be according to the procedural guidelines set forth in WAC 478-120-115 and chapter 34.05 RCW.
- (a) At the conclusion of the formal hearing, the faculty appeal board shall enter an initial order based on the findings of that hearing. That initial order shall include a written statement of the board's decision and the basis for that decision, including procedures for appealing the decision to the president or president's delegate. The initial order shall be provided to the parties student within ~~ninety-sixty~~ days of the conclusion of the hearing unless the faculty appeal board determines that an extension of time (which shall not exceed thirty additional days) is warranted and informs the parties of such extension. In a case involving an allegation of sexual misconduct offense, both the respondent and the complainant accuser and the accused shall be informed of the board's decision. In a case where the respondent student is a minor, the board's decision may be reported to the respondent's student's parents or legal guardian at the discretion of the conduct initiating officer.
- (b) An initial order from a formal hearing may be appealed to the president of the university or the president's delegate for a final ~~administrative~~ review.
- (c) If ~~no the student chooses not to appeal~~ is timely submitted, the initial order of the faculty appeal board shall become the final order, except that orders of dismissal entered by the faculty appeal board shall be reviewed by the president or the president's delegate in accordance with WAC 478-120-125.
- (6) The record in cases in which the faculty appeal board conducts a formal hearing shall be as specified in WAC 478-120-115(15-20).
- (7) Board members may be disqualified from a particular formal hearing for bias, prejudice, conflict of interest, or any other reason which may prevent them from serving as impartial judges of the matter before the board.

- (a) A committee member may excuse himself or herself for any of the causes set forth in this section by submitting a written statement to the board chair stating facts and reasons for the disqualification.
  - (b) A student before the faculty appeal board may challenge the impartiality of a board member by written petition. The chair shall determine whether to grant the petition and excuse the board member, stating the facts and reasons for the determination in writing.
  - (c) Faculty who have been delegated the authority to initiate disciplinary proceedings are disqualified from serving as members of the faculty appeal board.
- (8) At the discretion of the chair, board members may be excused from a particular hearing on the basis of compelling personal need after submitting a written request to the chair explaining the basis of the request.

#### 478-120-105 Administrative review by the faculty appeal board.

- (1) The faculty appeal board may conduct administrative review when exceptional circumstances do not exist or ~~the student has not requested a no~~ formal hearing has been requested. When the faculty appeal board determines that administrative review is appropriate, the chair shall notify all parties of that decision. The notice to the parties shall include a statement of:
  - (a) The allegations of misconduct against the respondent student;
  - (b) The sanctions that were recommended by the conduct initiating officer or the university disciplinary committee, if any; and
  - (c) A date by which any voluntarily submitted written briefs or statements must be submitted.
- (2) When the faculty appeal board conducts an administrative review, the board may base its review on:
  - (a) All documents and any recordings considered by the initiating officer or the university disciplinary committee; ~~or~~
  - (b) Oral and/or written argument submitted by any party of both parties; and or
  - (c) Additional evidence.
- (3) At the conclusion of its review, the faculty appeal board shall enter an order. An initial order may be appealed and a final order may not be appealed ~~except that final orders of dismissal shall be reviewed by the president or the president's delegate~~. The student shall be provided with a written order which shall include a written statement of the board's decision within ten days of the conclusion of the review and information on rights of appeal, if any. In a case involving an alleged allegation of sexual misconduct offense, both the respondent accuser and any complainant the accused shall be informed of the outcome of the review. In a case where the respondent student is a minor, the board's decision may be reported to the respondent student's parents or legal guardian at the discretion of the chair of the faculty appeal board.

#### 478-120-115 Formal hearings before the faculty appeal board.

- (1) The faculty appeal board shall conduct a formal hearing when exceptional circumstances exist and a the student has requested for in writing a formal hearing has been made. The faculty appeal board shall also conduct formal hearings as provided in the supplemental provisions for cases involving an allegation of sexual misconduct set forth in WAC 478-120-137. Additionally, the faculty appeal board may conduct a formal hearing in other circumstances as the board deems appropriate.
- (2) Within thirty days after receipt of a written petition for a formal hearing before the faculty appeal board, the board shall notify the requesting party of any obvious errors or omissions in the party's petition, request any additional information the board wishes to obtain and is permitted by law to require, and notify the requesting party of the name, mailing address, and telephone number of an office or person who may be contacted regarding the formal hearing.

- (3) Within ninety days after receipt of a written petition for formal hearing or within ninety days after the party's response to a timely request from the board as provided in subsection (4~~2~~) of this section, the board shall either deny the formal hearing or commence the formal hearing.
- (4) Once the board decides to conduct a formal hearing, the chair of the faculty appeal board shall schedule the time and place of the hearing and give not less than seven days advance written notice of the hearing to all parties. That notice shall include:
- (a) The names and addresses of all parties to whom notice is being given, and if known, the names and addresses of their representatives;
  - (b) The name, business address, and telephone number of the person designated to represent the university at the hearing;
  - (c) The official file number and name of the proceeding;
  - (d) The name, mailing address, and telephone number of the chair of the faculty appeal board;
  - (e) A statement of the time, place, and nature of the hearing;
  - (f) A statement of the legal authority and jurisdiction under which the hearing is to be held;
  - (g) A reference to the particular sections of university rules that are involved;
  - (h) A short and plain statement of the charges against the respondent~~student~~; and
  - (i) A statement that a student requesting the hearing who fails to attend the hearing or otherwise respond to this notice may lose his or her right to a formal hearing.
- (5) Hearings before the faculty appeal board shall be conducted in accordance with the provisions of this conduct code, the Administrative Procedure Act (chapter 34.05 RCW), and the Model Rules of Procedure (chapter 10-08 WAC). To the extent there is a conflict between this conduct code and the Model Rules, this conduct code shall control.
- (6) The faculty appeal board will make its own determination based on the record of the hearing before the faculty appeal board.
- (7)~~(5)~~ If a student requesting the hearing fails to attend or participate in a formal hearing, the faculty appeal board may:
- (a) Hold the hearing and issue an initial order based on a preponderance of the evidence presented at the hearing; or
  - (b) Issue ~~serve upon all parties~~ a default or other dispositive order which shall include a statement of the grounds for the order. Within seven days after service of a default order or other dispositive order, a ~~the~~ student may file a written request ~~motion~~ requesting that the order be vacated, and stating the grounds relied upon.
- (8)~~(6)~~ Each ~~The student~~ party may be represented by ~~counsel~~ an attorney and/or be accompanied by an advisor of ~~the student's~~ that party's choice. No student shall be compelled to give self-incriminating evidence. However, a negative inference can be drawn from a refusal to testify or to answer a particular question.
- (9)~~(7)~~ The chair shall determine whether discovery is to be available, and, if so, which forms of discovery may be used. The chair may condition the use of discovery procedures on a showing of necessity and unavailability by other means. In exercising such discretion, the chair shall consider:
- (a) Whether all parties are represented by counsel;
  - (b) Whether undue expense or delay in bringing the case to a hearing will result;
  - (c) Whether the use of discovery will promote the orderly and prompt conduct of the proceeding; and
  - (d) Whether the interests of justice will be promoted.
  - (e) The chair may decide whether to permit the taking of depositions, the requesting of admissions, or any other procedures authorized by rules 26 through 37 of the superior court rules.

- (10)(8) At appropriate stages of the hearing, the chair may give all parties an opportunity to submit and respond to briefs, motions, proposed findings of fact and conclusions of law, and proposed initial or final orders. To the extent necessary for a full disclosure of all relevant facts and issues, the chair shall afford the both parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence. A party filing a pleading, brief, or other documents paper with the chair shall serve copies on all other parties at the same time submitted to the chair.
- (11)(9) Evidence, including hearsay evidence, is admissible if it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The chair shall decide all procedural questions and make rulings on the admissibility of evidence, motions, objections, and on challenges to the impartiality of board members, unless a hearing examiner is appointed as provided below. ~~And~~ the Washington rules of evidence shall serve as guidelines for those rulings on the admissibility of evidence.
- (12)(10) All testimony of parties and witnesses shall be made under oath or affirmation. The parties are responsible for informing their witnesses of the time and place of the hearing.
- (13) At the discretion of the chair, and where the rights of the parties will not be prejudiced thereby, all or part of any hearing, including the testimony of witnesses, may be conducted by telephone, video, or other electronic means. Each party in the hearing must have an opportunity to participate effectively in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place. Such measures may be taken to accommodate concerns raised by a complainant, a respondent, or any witness.
- (14)(14) The faculty appeal board may appoint ~~an~~ a hearing examiner to conduct the actual hearing, which includes managing administrative matters before, during, and following a hearing, and ruling on any motions, objections, procedural questions, and the admissibility of evidence. The decision to use a hearing examiner requires the approval of a majority of the board members. The hearing examiner will then conduct the hearing and if requested by the board, will submit a detailed report to the faculty appeal board according to the provisions of this section.
- (a) The hearing examiner will have all of the authority of the chair of the faculty appeal board with regard to hearing procedures and will be responsible for maintaining the official record of the hearing, including an audio or video recording of the hearing, and transmitting the full official record to the chair following the hearing. ~~If a hearing examiner conducts the hearing, an audio recording of the hearing must be kept, and the recording and any transcription thereof must be provided to the board.~~
- (b) The faculty appeal board may, at its option, request the hearing examiner to provide recommendations as to findings, conclusions, and decisions, but those recommendations shall not be binding on the board. ~~The hearing examiner shall transmit to the board the full and complete record of the hearing and the board shall make its own findings, conclusions, and decisions based on the official record.~~
- (c) ~~The hearing examiner will make initial rulings on the use of discovery, the admissibility of evidence, and the procedures for the hearing.~~
- (c)(d) The hearing examiner must be an attorney permitted to practice law in Washington State member of the bar. Any member of the faculty appeal board who is also a member of the Washington State bar, including the chair, may serve as the hearing examiner.
- (15)(12) The chair of the faculty appeal board may issue subpoenas and enter protective orders. A party may request in writing that the chair issue a subpoena for the attendance of a witness at the hearing. The requesting party is responsible for serving the subpoena upon the witness.
- (16)(13) ~~Member of the faculty appeal board must avoid ex parte communications with any party involved in the hearing regarding any issue other than communications necessary to maintaining an orderly procedural flow to the hearing. All communications with the chair and/or members of the faculty~~

appeal board, except for communications necessary to procedural aspects of maintaining an orderly process, must be in the presence of, or with a copy to, all other parties. Ex parte communications received by the chair or members of the board must be placed on the record, and all the other parties must be informed of the ex parte communication and given an opportunity to respond on the record.

~~(17)~~(14) At conclusion of a hearing, and following the submission of all evidence, any written closing arguments, and any proposed orders by the parties, the board shall determine, whether based on a preponderance of the evidence, the respondent is responsible for violating this conduct code and, if so, what sanction(s) are to be imposed. The faculty appeal board shall have the full authority to impose any of the sanctions specified in WAC 478-120-040, subject to review in accordance with this conduct code. (All orders of dismissal are subject to review by the president in accordance with WAC 478-120-125.) Decisions will be determined by majority vote. Findings, conclusions, and decisions by the faculty appeal board shall be based exclusively on the evidence of record from the hearing and on matters officially noted in the record.

~~(18)~~(15) The board shall enter an initial order which shall be served in writing on all parties~~the student~~ within ninety sixty days after conclusion of the hearing or after submission of memos, briefs, or proposed findings, whichever is later, unless the period is waived or extended for good cause shown. The board's initial order shall:

- (a) Include a statement of findings of fact and conclusions with any findings based substantially on credibility of evidence or demeanor of witnesses so identified;
- (b) Specify the section(s) of this conduct code that the respondent is responsible for violating, if any;
- (c) Indicate the sanction(s) imposed, if any;
- (d) Provide a statement regarding the availability of presidential review and the applicable time limits; and
- (e) Include a statement of the circumstances under which the board's initial order, without further notice, may become a final order.

The student shall be informed of procedures for appealing the decision. ~~If the student does not appeal the board's initial order within the time set out in WAC 478-120-075(1), the initial order of the board shall become the final order, except all orders of dismissal shall be reviewed by the president or the president's delegate.~~

(19) An initial order issued by the faculty appeal board will become a final order if the respondent (or a complainant in any case involving an allegation of sexual misconduct) does not submit a request for review in accordance with WAC 478-120-125 within twenty-one (21) days of service of the initial order, except that any initial order imposing dismissal will be automatically forwarded to the president for review under WAC 478-120-125.

~~(20)~~(16) The chair shall maintain an official record of the hearing. The record shall contain those items specified in RCW 34.05.476.

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#### **478-120-125 Review by the president of the university.**

- (1) Any initial order of the faculty appeal board that is based on the findings of a formal hearing may be appealed for a final review to the president or the president's delegate by a respondent, and in any case involving an allegation of sexual misconduct, a complainant (regardless of whether the complainant participated as a party in the hearing before the faculty appeal board). Upon the submittal of such an appeal, the complainant will be considered a party to the final review. ~~The student must submit an~~ An appeal must be submitted to the President and the conduct officer in writing within twenty-one days of service of the board's initial order for which review is sought. or twenty five days of mailing the order, unless the order specifies a different time limit. Upon receipt, the President (or President's delegate) shall promptly serve all other parties with a copy of the appeal. Any appeal shall include the reasons for the appeal ~~specify the portion of the board's order to which exception is taken and shall refer to the evidence of record which is relied upon to support~~

- ~~the petition.~~ However, the president or the president's delegate shall review all orders of dismissal, regardless of whether ~~the a~~ student appeals. In a case imposing dismissal, any request for review submitted by a respondent or, in a case involving an allegation of sexual misconduct, a complainant, will be considered concurrently with the president's (or president's delegate's) automatic review of the matter.
- (2) The president or the president's delegate shall consider the entire record of the disciplinary proceeding or such portion as may be specified ~~cited~~ by the parties ~~student~~. At the president's or the president's delegate's discretion, the parties may also supplement the record with additional evidence.
  - (3) The parties may present their arguments to the president or the president's delegate in writing, and the president or the president's delegate may, at his or her discretion, afford each party an opportunity for oral argument.
  - (4) Any review by the president or the president's delegate will be conducted in accordance with RCW 34.05.464.
  - (5) All communications with the president or president's delegate, except for communications necessary to procedural aspects of maintaining an orderly process, must be in the presence of, or with a copy to, all other parties. Ex parte communications received by the president or president's delegate must be placed on the record, and all other parties must be informed of the ex parte communication and given an opportunity to respond on the record.
  - ~~(6)(4)~~ After reviewing the record and considering the arguments of ~~the two~~ all parties, the president or the president's delegate shall enter a final order disposing of the matter or remanding the case for further proceedings ~~and provide the student with a copy of that order.~~ A final order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3). A copy of the final order shall be served upon all parties.
  - ~~(7)(5)~~ In a case involving an ~~alleged sexual offense~~ allegation of sexual misconduct, both the ~~respondent~~ accuser and the ~~complainant~~ accused shall be informed of the outcome of the review. In a case where the ~~respondent~~ student is a minor, the decision of the president or the president's delegate may be reported to the ~~student's~~ respondent's parents or legal guardian at the discretion of the president or president's delegate.
  - ~~(8)(6)~~ Notwithstanding any other provisions of this chapter, and before an initial order issued under this conduct code becomes final, the president or the president's delegate may determine that the initial order should be reviewed. Upon such determination, a complainant, in any case involving an allegation of sexual misconduct, if not already a party in the hearing before the faculty appeal board, shall be given the opportunity to participate as a party for purposes of review by the president or the president's delegate. Notice of the president's (or president's delegate's) decision to review any initial order under this subsection shall be provided to all parties. Review the order. Any such review shall be in accordance with RCW 34.05.464 and/or RCW 34.05.491.

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#### 478-120-135 Reconsideration of final orders.

- (1) Within ten days of the service of a final order from the president or the president's delegate, any party ~~the student~~ may file a request for reconsideration, stating in writing specific reasons for the request. The request shall be directed to the president or the president's delegate, who issued the final order, and the conduct officer. Upon receipt, the President (or President's delegate) shall promptly serve all other parties with a copy of the request for reconsideration.
- (2) A request for reconsideration does not stay the effectiveness of a final order.
- (3) A request for reconsideration is only intended to correct obvious mistakes in the judgment or order and should not be used to reargue the case. Filing a request for reconsideration is not a

prerequisite for ~~seeking~~ obtaining judicial review in accordance with chapter 34.05 RCW. An order denying reconsideration or a notice provided for in subsection (4)(b) of this section and denial of the request is not subject to judicial review.

- ~~(4)~~(3) If a request for reconsideration is timely and properly submitted, the time for filing a petition for judicial review of a final order does not commence until the university disposes of the request for reconsideration. The request for reconsideration is automatically deemed to have been denied if, within twenty (20) days from the date the request for reconsideration is timely submitted, the president or president's delegate who issued the final order does not either (a) dispose of the request, or (b) serve the parties with a written notice specifying the date by which he or she will act upon the request. The request for reconsideration shall be promptly considered. If, within twenty days from the date the request is filed, the president or president's delegate does not either (a) dispose of the request, or (b) serve the student with a written notice, specifying the date by which it will act upon the request, the request is deemed to be denied.
- (5) Unless the request for reconsideration is deemed denied under subsection (4) of this section, the request shall be disposed of by the same president or president's delegate, who issued the final order, if reasonably available. The disposition shall be in the form of a written order denying the request, granting the request and dissolving or modifying the final order, or granting the request and setting the matter for further hearing.

#### **WAC 478-120-137 Supplementary Provisions Regarding Sexual Misconduct.**

- (1) ~~By way of clarification only, it is hereby affirmed that sexual assault, sexual harassment, indecent exposure, sexual exploitation, stalking, domestic violence, and relationship violence all as defined herein (collectively "sexual misconduct") are prohibited conduct and any student who has engaged in sexual misconduct may be subject to the imposition of disciplinary sanctions as described in WAC 478-120-040. Investigations and adjudications of cases involving an allegation of sexual misconduct will be conducted by university officials who receive regular (no less than annual) training on issues related to sexual misconduct. This requirement applies to conduct officers, all members of the faculty appeal board, the President, and the President's delegates. The specific training requirements shall be established by the university's Title IX coordinator.~~
- (2) ~~Notwithstanding any other provision of this conduct code, a student may be subject to disciplinary proceedings in connection with any allegation of sexual misconduct that occurs off campus if the university reasonably determines that a significant university interest is affected.~~
- (2) ~~(3)~~ Notwithstanding any other provision of this conduct code, "exceptional circumstances" shall be deemed to exist in all cases involving an allegation of sexual misconduct, and such cases shall be subject to the following supplementary provisions. All cases involving an allegation of sexual misconduct shall be subject to the following supplementary provisions:
- (a) ~~The initiating conduct officer will concurrently serve both the accused student respondent and any complainant(s) with a copy of the initiating conduct officer's initial order. For the purposes of this section, "complainant" means a student or another member of the University community who believes that an act of sexual misconduct has been committed against him or her in violation of this conduct code.~~
- (b) ~~Either a complainant or the accused student respondent may appeal such initial order to the faculty appeal board in accordance with WAC 478-120-075 this conduct code, and both the accused student respondent and any complainant shall receive notice of any appeal and notice of any hearing before the faculty appeal board. An initial order by a conduct officer in a case involving an allegation of sexual misconduct may be subject to review by the faculty appeal board as follows:~~
- (i) **Initial order imposes sanction and exceptional circumstances exist** - If the initial order imposes a sanction and exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) exist, the matter shall be referred directly to the faculty appeal board and both the respondent and any complainant shall each have twenty-one (21) calendar

days from the date of service of the initial order to request a formal hearing according to the procedures set forth in WAC 478-120-075(3). (The respondent and any complainant shall be informed that the faculty appeal board may ~~only~~ increase a sanction imposed in an initial order ~~only~~ if a formal hearing is held.) If no timely request for a formal hearing is submitted, the faculty appeal board shall conduct administrative review in accordance with WAC 478-120-105.

- (ii) **Initial order imposes sanction, but no exceptional circumstances exist** - If the initial order imposes a sanction and exceptional circumstances as defined in WAC 478-120-100(3)(b)(i) do not exist, the respondent and any complainant shall each have twenty-one (21) calendar days from the date of service of the initial order to submit an appeal to the faculty appeal board. If a timely appeal is submitted by either the respondent or any complainant, the faculty appeal board shall conduct a formal hearing in accordance with this conduct code. If no timely appeal is submitted by either the respondent or any complainant, all rights of appeal are waived and the order becomes the final order.
- (iii) **Initial order does not impose a sanction** - If the initial order does not impose a sanction, any complainant shall have twenty-one (21) calendar days from the date of service of the initial order to submit an appeal to the faculty appeal board. (The respondent shall be informed that the complainant has this right, and that such initial order shall not become final at least until the period for any complainant to submit an appeal has elapsed.) If a timely appeal is submitted by any complainant, the faculty appeal board shall conduct a formal hearing in accordance with this conduct code. If no timely appeal is submitted, all rights of appeal are waived and the order becomes the final order.

Any appeal petition must state the reasons for the appeal. Any appeal petition must be submitted to the faculty appeal board and to the conduct officer, who will promptly provide a copy of the appeal to any other party.

- (c) If a timely appeal of an initial order issued by the initiating officer is submitted and a request for a formal hearing is made, the faculty appeal board shall conduct a formal hearing is held by the faculty appeal board in a case involving an allegation of sexual misconduct, such hearing shall be conducted in accordance with WAC 478-120-100 and WAC 478-120-115 and the following supplementary ~~provisions~~ procedures shall also apply:
  - (i) Both the respondent and any complainant shall be provided with the notice of a formal hearing as specified in WAC 478-120-115(2), (3), and (4). Both the ~~accused student~~ respondent and any complainant will have the right to participate as a party in the hearing, including but not limited to the right to be represented by ~~counsel~~ an attorney and/or be accompanied by an advisor, to call witnesses, to cross-examine witnesses, and to submit documentary evidence. A complainant (with or without ~~counsel~~ an attorney and/or an advisor) may attend the formal hearing in its entirety, regardless of whether the complainant decides to participate as a party.
  - (ii) ~~An accused student and the~~ The respondent and a complainant may not ask questions of each other directly, but ~~may~~ will be allowed to submit written questions to the chair of the faculty appeal board, who will ask any relevant and appropriate questions submitted by these parties. The chair has the discretion to accept, reject, or rephrase any question submitted by the ~~accused student~~ respondent or a complainant.
  - (iii) ~~At the discretion of the chair, and where the rights of the parties will not be prejudiced thereby, all or part of any formal hearing, including the testimony of witnesses, may be conducted by telephone, video, or other electronic means.~~
  - (iii) ~~(iv)~~ Both the ~~accused student~~ respondent and any complainant shall be concurrently served with all orders issued by the faculty appeal board.
- (d) In any ~~matter~~ case involving an allegation of sexual misconduct, any complainant shall have the same rights as the ~~accused student~~ respondent to participate as a party in any administrative review under WAC 478-120-105, to appeal a faculty appeal board's initial order to the president of the university under WAC 478-120-125, to participate as a party in

- any appeal to the president, and to seek reconsideration of a final order under WAC 478-120-135. In the event that a complainant timely appeals ~~in a timely manner~~ an initial order, such order shall not become final until that appeal is resolved. Any notices or orders issued by the president shall be concurrently served on the ~~accused student~~ respondent and any complainant(s), in addition to the conduct officer.
- (e) Except as otherwise provided in this section, ~~matters~~ cases involving an allegations of sexual misconduct will be subject to all the other applicable provisions of this conduct code.
- ~~(4) For the purposes of this section, "sexual misconduct" includes sexual assault, sexual harassment, indecent exposure, sexual exploitation, stalking, domestic violence, and relationship violence, all as defined in subsections (5) through (11) of this section.~~
- ~~(5) For the purposes of this student conduct code "sexual assault" means any sexual contact with another person without (or that exceeds) that person's consent.~~
- ~~(a) For the purposes of this definition, "sexual contact" includes:~~
- ~~(i) Any touching of another person for the purpose of sexual gratification; or~~
- ~~(ii) Any penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ, of another person.~~
- ~~(b) For the purposes of this definition, "consent" means that at the time of and throughout the sexual contact, there are actual words or conduct indicating freely given agreement between the parties to engage in the sexual contact. A determination of whether consent had been given in connection with an incident of sexual contact shall take into account the following:~~
- ~~(i) Past consent does not imply future consent;~~
- ~~(ii) Consent given to one person does not imply consent given to another person;~~
- ~~(iii) Consent to one sexual act does not imply consent to other sexual acts;~~
- ~~(iv) Lack of resistance to sexual contact does not imply consent;~~
- ~~(v) Consent can be withdrawn at any time.~~
- ~~(c) Consent cannot be given by a person who, at the relevant time, cannot understand the facts, nature, extent, or implications of the sexual contact for any reason, including, but not limited to, being asleep, unconscious, mentally or physically impaired due to an intellectual or other disability, or mentally or physically incapacitated due to the effects of drugs or alcohol. Indications that a person may be incapacitated by alcohol or drugs and therefore cannot grant consent include, but are not limited to, stumbling, falling down, an inability to stand or walk on their own, slurred speech or incoherent communication, an inability to focus their eyes or confusion about what is happening around them, blacking out, or vomiting. A failure to exhibit any of these behaviors does not necessarily mean that a person is capable of giving consent or is not incapacitated.~~
- ~~(d) Sexual contact is not consensual when force or coercion is threatened or used to gain acquiescence. Force includes the use of physical violence, physical force, threats, or intimidation to overcome resistance or gain agreement to sexual contact. Coercion includes using pressure, deception, or manipulation to cause someone to agree to sexual contact against his or her will, without the use of physical force. Pressure can mean verbal or emotional pressure.~~
- ~~(e) Sexual assault also includes sexual contact with a person who is under the statutory age of consent in accordance with Chapter 9A.44 RCW.~~
- ~~(f) Use of alcohol or other drugs is not a valid defense to an allegation of sexual assault.~~
- ~~(6) For the purposes of this conduct code, "sexual harassment" means unwelcome language or conduct of a sexual nature that is sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance or a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities.~~

- (7) For purposes of this conduct code, “indecent exposure” means the exposure of a person’s genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm, or is against generally accepted standards of decency. Breast feeding or expressing breast milk is not indecent exposure.
- (8) For the purposes of this conduct code, “sexual exploitation” includes:
- (a) Taking nonconsensual or abusive advantage of another for one’s own sexual benefit, or for the sexual benefit of anyone other than the one being exploited;
  - (b) Compelling another by threat or force to engage in sexual conduct or activity;
  - (c) Transmitting, distributing, publishing, or threatening to transmit, distribute, or publish photos, video, or other recordings of a private and sexual nature where such transmission, publication, or distribution is without the consent of the subject(s) and is likely to cause emotional distress to the subject(s).
  - (d) Taking or making photographs, films, or digital images of the private body parts of another person without that person’s consent;
  - (e) Causing or attempting to cause the impairment of another person to gain non-consensual sexual advantage over that person;
  - (f) Prostituting another person;
  - (g) Knowingly allowing another to surreptitiously watch otherwise consensual sexual activity; or
  - (h) Taking, making, or directly transmitting non-consensual video or audio recordings of sexual activity.
- (9) For purposes of this conduct code, “stalking” means engaging in a course of conduct that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. “Course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means (including electronic), follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- (10) For purposes of this conduct code, “domestic violence” means the infliction of physical harm, bodily injury, assault, or the fear of imminent physical harm, bodily injury or assault committed against a family or household member, including:
- (a) A current or former spouse or intimate partner;
  - (b) A person with whom the person shares a child in common;
  - (c) A person with whom one is cohabitating or has cohabitated; or
  - (d) A person with whom one resides including a roommate, suitemate or housemate.
- Domestic violence also includes sexual assault or stalking as defined herein of one family or household member by another family or household member.
- (11) For the purposes of this conduct code, “relationship violence,” also referred to as “dating violence,” means violence, other than domestic violence as defined in subsection (10) of this section, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, relationship or dating violence includes, but is not limited to sexual or physical abuse or the threat of such abuse.
- (12) As in all proceedings under this conduct code, the applicable standard of proof in cases involving sexual misconduct shall be the “preponderance of evidence” standard. This means that, in order for a student to be held responsible for a violation, it must be shown, based on all of the evidence in the record, that it is more likely than not that the student engaged in an act or acts of misconduct.

~~The burden of proof in any hearing rests with the party seeking to establish that the violation occurred.~~

- ~~(13) Following receipt of a report of alleged sexual misconduct, the University may implement interim protective measures, including but not limited to:~~
- ~~(a) A "no-contact directive" prohibiting direct or indirect contact, by any means, with a complainant, an accused student, a reporting student, other specified persons, and/or a specific student organization;~~
  - ~~(b) Reassignment of or removal from on-campus housing; or~~
  - ~~(c) Changes to class schedules, assignments, or tests.~~

~~Interim protective measures will remain in place until an initial order becomes final or a final order is issued. Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for a violation under the student conduct code.~~

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#### **478-120-140 Emergency authority of the president and chancellors of the university.**

If there is reasonable cause to believe that a student's conduct represents a threat to the health, safety, or welfare of the university or any member of the university community, or poses an ongoing threat of substantially disrupting or materially interfering with university activities or operations, the president, the president's delegate, the vice-president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses, or the chancellors' delegates, may immediately suspend that student from participation in any or all university functions or privileges.

- ~~(1) In such an emergency situation, the university official placing the student on emergency suspension president, the president's delegate, the vice president for student life, the chancellors, or the chancellors' delegates, shall issue a written order to be served upon the student describing the terms of the emergency suspension and the reasons for the emergency imposing the suspension. The order shall be effective immediately and emergency suspension shall, unless otherwise specified in the emergency suspension order, remain in effect until the conclusion of all disciplinary proceedings. The order shall advise the student that he or she may provide information in writing at any time as to why emergency suspension should not be continued or why it should be made less restrictive.~~
- ~~(2) The matter shall then be referred to the appropriate conduct officer, disciplinary campus official who shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger set the informal hearing. At the informal hearing, the student shall be given an opportunity to provide information as to why emergency suspension should not be continued or why it should be less restrictive.~~
- ~~(3) To the extent permissible under applicable law, in any case involving an allegation of sexual misconduct, a complainant may also be provided with notice of the respondent's emergency suspension and any terms of the emergency suspension that directly relate to the complainant.~~
- ~~(4) If a final order is entered exonerating a respondent, any emergency suspension order shall be lifted by the university official who issued the order.~~

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#### **478-120-145 Recording and maintenance of records.**

- ~~(1) Records related to disciplinary proceedings shall be maintained consistent with university records retention policies and this conduct code.~~
- ~~(2) The president, vice-president for student life at the University of Washington Seattle campus, or the chancellors of the University of Washington Bothell and Tacoma campuses, or their delegates, shall~~

~~maintain~~ keep records related to ~~of~~ all disciplinary actions reported to their respective offices and and may notify the dean or director of the college, school, or program, in which a respondent is enrolled, of any action related to disciplinary proceedings involving the respondent, provided that the school official to whom the information is being disclosed has a legitimate educational interest in receiving such information, as permitted by FERPA.

- (3) Records related to ~~dDisciplinary proceedings records~~ shall be kept separate from academic records, and respondents' official academic transcripts of a student's academic record shall not contain any ~~no~~ notation of any ~~disciplinary actions taken pursuant to this conduct code.~~
- (4)(2) The deans of a college or school at the University of Washington Seattle, the dean or directors of ~~at the program in which the student is enrolled at the University of Washington Bothell and Tacoma campuses, or their delegates, initiating disciplinary action shall~~ maintain records related to all disciplinary matters reported to their respective offices and shall notify report in writing to the office of the vice-president for student life, or the office of the chancellor for the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates, of any disciplinary action imposed against a respondent, who is enrolled in their college, school, or program all cases in which disciplinary action is taken. The University officials named in this section dean at the University of Washington Seattle shall also inform the appropriate registrar of any action affecting a student's official standing in the university (e.g. suspension or dismissal). The office of the vice president for student life, or the office of the chancellor for the University of Washington Bothell or Tacoma campuses, shall notify the dean of the college or school or director of the program in which the student is enrolled of any disciplinary action it takes and also shall notify the registrar or campus officer of student affairs of any action affecting a student's official standing in the university.
- (5) The chairs of the faculty appeal board and university disciplinary committees shall maintain the official record (as indicated in RCW 34.05.476) of each disciplinary hearing until a final order is issued or entered. At such time, the respective chair will transmit the official record to the Vice President for Student Life, the Chancellor for UW Bothell, or the Chancellor for UW Tacoma, whoever is appropriate, or their delegates, who will maintain the official record in accordance with this section.
- (6)(3) Disciplinary records of respondents students not exonerated shall be maintained by the vice-president for student life, or the chancellor at the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates, and the registrar for seven years after the resolution of all disciplinary proceedings (including the resolution of any petition for judicial review filed in superior court) or until action has been taken and/or after the administrative purpose for retention has been served, whichever is later. Final orders imposing suspension or dismissal may be maintained indefinitely.
- (4) ~~Disciplinary records of exonerated students shall not be maintained.~~
- (5) ~~Notwithstanding any other provision of this section, the vice president for student life, or the chancellor at the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates, at their discretion, upon written request by the student, may expunge the student's disciplinary record.~~
- (7)(6) Student disciplinary rRecords are "education records" as defined by FERPA and information regarding student disciplinary proceedings are subject to the provisions of the Family Educational Rights, and Privacy Act and supporting regulations (20 U.S.C. 1232g) and may only be disclosed consistent with FERPA and to chapter 478-140 WAC.

**478-108-010 – Matters subject to brief adjudication**

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Appeals from residency classifications under RCW 28B.15.013 as established in chapter 478-160 WAC;
- (2) Appeals from traffic and parking violations, and skateboard impoundment, as provided for in chapters 478-116, 478-117 and 478-118 WAC;
- (3) Challenges to contents of educational records as provided for in chapter 478-140 WAC;
- (4) Proceedings under the animal control policy as detailed in chapter 478-128 WAC;
- (5) Requests for reconsideration of admission decisions as provided for in WAC 478-160-060;
- (6) Appeals of library charges as provided in chapter 478-168 WAC;
- (7) Reviews of denials of public records requests as provided in chapter 478-276 WAC;
- (8) Federal financial aid appeals as provided for by federal law; ~~and~~
- (9) Collection of outstanding debts owed by students or employees; and
- (10) Disciplinary proceedings before a university disciplinary committee as provided in chapter 478-120 WAC.

*Approved by:*  
Senate Executive Committee  
October 5, 2015

*Approved by:*  
Faculty Senate  
October 22, 2015

**Class A Legislation.**

Proposed amendments to the Faculty Code regarding reorganization, consolidation and elimination procedures.

**RATIONALE FOR PROPOSED CLASS A LEGISLATION: CHAPTER 26 (RCEP)**

Chapter 26 of the Faculty Code addresses the process for “reorganization, consolidation, and elimination procedures (RCEP).” Generally, “programs” are academic programs (e.g. degree programs, departments, or alternative academic structures). If the proposed action is to reorganize, consolidate, or eliminate one or more “programs” within a single school, college, or campus, the RCEP is initiated by a Dean or Chancellor. If the proposed action is to reorganize, consolidate, or eliminate one or more schools or colleges or campuses, the RCEP is initiated by the Provost. Processes for program changes were added to the Faculty Code to protect faculty and student rights for input into decisions, especially program eliminations. Over the years, the RCEP processes have been revised to improve efficiency and transparency.

There are two pathways for RCEPs, regularly referred to as “full” and “limited.” Which pathway is used depends on what effects the program change will have on faculty and students. In both pathways, the process involves the college’s council, the Senate Committee on Planning and Budgeting (SCPB), and the faculty members of affected units. Full RCEP processes are currently required for all program eliminations, even those supported by the faculty in the unit. A full RCEP process includes hearings and other formalities, and usually take longer than an academic quarter to be completed. There is agreement that this process may be unnecessarily cumbersome in some instances.

The proposed changes are designed to expand the conditions under which a “limited” RCEP process can be used when a program elimination within a school or college is proposed by the Dean. The Faculty Council on Faculty Affairs (FCFA) approved the faculty code language changes by a unanimous vote on 4/28/15. The question for the SEC to consider is: are the protections, subsequent to this change, ample enough to safeguard against program elimination without due process?

University of Washington

## Faculty Code and Governance

### Faculty Code

### Chapter 26

#### Chapter 26 Financial Emergency and Procedures for Elimination of an Academic Program

#### Section 26–41 Reorganization, Consolidation, and Elimination Procedures

##### A. General Provisions and Definitions

1. For the purposes of Subsections B, ~~and C,~~ and D, below, a "program" is defined (comprising both 'department' and 'program' as defined in Executive Order No. VI, Sections 3 and 4) as follows:
  - a. A department or other degree-granting unit (other than a departmentalized school, college, or campus); or a sub-unit within a department, an academic unit in a non-departmentalized school or college, or a group of faculty (from one or more departments) which offers a distinct degree, or a track within a degree that is described as a distinct option in the University Catalog, or in the course catalog of the college or school in question, or is customarily noted as such on student transcripts.
  - b. A disagreement as to whether the object of a proposed action constitutes a program shall be resolved by the Senate Committee on Planning and Budgeting, whose decision shall be binding. The dean or chancellor and the faculty group affected by the proposed action shall each submit a statement of their position to the chair of the committee, which shall deliver its ruling within ten instructional days of the receipt of both statements.
2. An "instructional day" is a day on which scheduled classes meet during Autumn, Winter, and Spring Quarters and excludes weekends, holidays, vacation, and examination periods.
3. For purposes of these proceedings, a timely review and consultation process is required. Each stated time period is intended as the maximum period for action, review, comment, or advice. An extension of a stated deadline may be granted by the Secretary of the Faculty only upon reasonable grounds submitted in writing.
4. Copies of all documents required under Section 26-41 shall be filed with the Secretary of the Faculty.
5. Any written recommendations received by the Secretary of the Faculty under Section 26-41 must be made available to any member of the faculty on request.

##### B. Procedures for Reorganization, Consolidation, or Elimination of Programs

1. ~~If in order to achieve a budget reduction, reallocate resources, implement educational policies, or realign academic priorities, a dean or chancellor may at any time, after consultation with his or her elected faculty council (Chapter 23, Section 23-45, Subsection C) determines that a budget reduction, a reallocation, propose the elimination or reorganization of resources, or a realignment of academic priorities can only be implemented by measures that will have one or more of the following results—~~ programs (as defined in Subsection A above) within a school, college, or campus, or their consolidation with other programs.
  - ~~a. The termination of an undergraduate or graduate program as defined in Subsection A above;~~
  - ~~b. The removal of tenured faculty or of untenured faculty before completion of their contract;~~
  - ~~c. A significant change in the terms, conditions, or course of employment of faculty;~~
  - ~~d. A significant change in the overall curriculum of a college, school, or campus, or of the University as a whole; or~~

- ~~e. A significant departure from the stated mission of a college, school, or campus, or of the University as a whole;~~

Above, b., c., d., e., moved to B.3 below.

2. The dean or chancellor shall request authority from the Provost to implement the proposed change. ~~initiate a formal review to identify one or more programs for elimination, reorganization, or consolidation with another unit and/or reduction in size.~~ The Provost shall consider such requests in consultation with the Senate Committee on Planning and Budgeting.
3. The Provost shall initiate procedures for a full review of the request, ~~described in Subsection C.~~ if the proposal can only be implemented by measures that will have one or more of the following results:
  - ~~a.b.~~ The removal of tenured faculty or of untenured faculty before completion of their contract;
  - ~~b.e.~~ A significant change in the terms, conditions, or course of employment of faculty;
  - ~~c.d.~~ A significant change in the overall curriculum of a college, school, or campus, or of the University as a whole; or
  - ~~d.e.~~ A significant departure from the stated mission of a college, school, or campus, or of the University as a whole;
4. If the proposed measures will not have the effects described in Subsection B.3 above, the Provost shall initiate procedures for a limited reorganization, consolidation, or elimination of programs, described in Subsection D. The reallocation of graduate degree programs (Executive Order No. VII, Section 2) from one qualified academic unit (Executive Order No. VII, Section 4) to another, or to an interdisciplinary program within the Graduate School, is a limited reorganization that should follow the procedures outlined in Subsection D. The complete elimination of a department or other appointing unit within a school, college, or campus, without its reorganization or consolidation with another unit, or relocation from one school or college to another, is a full elimination that should follow the procedures outlined in Subsection C.

Second sentence, "The reallocation of graduate . . ." was formerly in C.1.

### **C. Procedures for Full Review of Reorganization, Consolidation, or Elimination of Programs**

1. The dean or chancellor shall request authority from the Provost to initiate a formal review to identify one or more programs for elimination, reorganization, or consolidation with another unit and/or reduction in size, if the review may result in any of the effects described in Subsection B.3..The Provost shall consider such requests in consultation with the Senate Committee on Planning and Budgeting.

Number 1. above is formerly from B. 1.

2. If the Provost grants the dean's or chancellor's request for such authority:
  - A. The dean or chancellor shall notify the Secretary of the Faculty of his or her intention to initiate a review under this section of the *Faculty Code*. The Secretary of the Faculty shall, after consultation with the Chair of the Faculty Senate, appoint within ten instructional days an External Faculty Committee composed of five faculty members (including one designated as the committee's chair) from outside the college or school in which the review is to take place.
  - B. The External Faculty Committee, when convened by its chair, shall establish a schedule of meetings for its own committee. Such independent meetings of the External Faculty Committee will allow its members to form independent conclusions regarding the arguments and evidence supporting the proposed action of the dean or chancellor. The responsibility of

- the External Faculty Committee is to ensure that the recommendations of the elected faculty council and of the dean or chancellor are based on a process that was fair, thorough, impartial, and consistent in its use of appropriate criteria and materials. (The External Faculty Committee shall retain copies of all the materials it has considered, which it will make available to the Review Committee, should one be appointed under Subsection BC.4 below.)
- C. For the duration of the reorganization, consolidation, or elimination procedures, and for the business of these procedures only, the members of the External Faculty Committee shall also be added to the elected faculty council of the college, school, or campus in question as ex officio members without vote. They shall participate in all meetings of that council, convened by its faculty chair or the dean or chancellor, leading to the identification of programs for reorganization, consolidation, or elimination, and shall have full access to all materials and personnel consulted by the dean or chancellor and the elected faculty council in this process. This combination of the elected faculty council and the External Faculty Committee is hereinafter referred to as the augmented faculty council.
- D. If the elected faculty council does not include student members, the dean or chancellor shall request that the student organization (or organizations) of the affected school, college, or campus shall appoint a graduate student and, where appropriate, an undergraduate student to serve, with voting rights, with the augmented faculty council for the business of these procedures only. If no such student organization exists, such appointments shall be made by the GPSS or other appropriate, recognized graduate student organization and the ASUW or other appropriate recognized student organization.
- E. The dean or chancellor, in consultation with the augmented faculty council, associate deans, and other appropriate advisory bodies or affected groups in the college, school, or campus, shall examine measures to meet the required budget reduction, resource allocation goals, or realigned academic priorities, including the reorganization, consolidation, or elimination of programs, and alternatives to such actions.
- F. The information used as a basis for the identification of programs for reorganization, consolidation, or elimination, and of alternatives to such actions, shall consist of:
1. Documents that pre-date the dean's or chancellor's request (under Subsection BC.1 above), including:
    - a. The reports resulting from periodic reviews of programs or departments, any interim revisions of them, and responses to them by the dean or chancellor, the elected faculty council, and the faculty of the program(s) in question.
    - b. Accreditation reviews, if such exist for the program(s) in question.
    - c. Any other performance data gathered and maintained by the school, college, or campus, provided they are up-to-date and have been previously submitted to the faculty of the program(s) in question for review and response.
    - d. All relevant documentation resulting from the ongoing long-range planning process in the school, college, or campus, and
  2. Such other information requested by the dean, chancellor, or the augmented faculty council as deemed necessary, or independently requested by the External Faculty Committee, provided it is up-to-date and has been submitted for review and response to the faculty of the program(s) under consideration, and the faculty in the program(s) have had at least five instructional days to submit their comments on the information.
- G. In proposing program reorganizations, consolidations, or eliminations, the dean or chancellor shall protect, to the maximum extent possible:

1. The overall curriculum of the school, college, or campus and the University and the educational needs of its students, consistent with the role and mission of the University;
  2. In the case of a reorganization or consolidation, the quality of the program in relation to Subsection BC.2.g.1 above;
  3. Other programs in the University, including interdisciplinary programs, that may be affected by the proposed action(s);
  4. The University's commitment to tenure; and
  5. The University's commitment to diversity in faculty, staff, and students.
- H. When the chair of the elected faculty council determines that the augmented faculty council is ready to conclude its review, a formal vote on the proposed action shall be taken by its eligible voting members. The result of that vote shall be communicated in writing to the dean or chancellor, who at least ten instructional days before any public announcement, shall communicate directly in writing with each faculty member of the affected program(s) to inform them of his or her intended action. The dean or chancellor shall make available to them the report described in Subsections BC.3 and BC.3.a below and its supporting documents, and the accompanying statement by the External Faculty Committee described in Subsection BC.3.b below (when available). At least five instructional days before any public announcement, the dean or chancellor shall convene the faculty of the identified program(s) for the purpose of explaining the review procedures to them, and informing them of the provisions under Subsections BC.5 and BC.6 below for representation of their views and presentation of supporting evidence.
3. The dean's or chancellor's intention to reorganize, consolidate, or eliminate the identified program(s) shall be announced within a period of thirty instructional days from the appointment of the External Faculty Committee (Subsection BC.2.a above). This announcement shall be made in the form of a detailed and specific report accompanied by a separate, independent statement from the External Faculty Committee. Both of these documents shall be submitted by the dean or chancellor to the Provost and the chair(s) of the affected unit(s), to the Chair of the Faculty Senate, and to the Secretary of the Faculty, who shall publish them in a *Class C Bulletin* within five instructional days of receiving them.
    - a. The dean's or chancellor's report shall:
      1. Justify the proposed measures in relation to existing program review materials and other publicly available planning documents;
      2. Describe the impact of the proposed measures on the faculty in the identified program(s), on other programs, and on the curriculum and students of the school, college, or campus as a whole; and
      3. Be accompanied by all supporting documents, which need not be published in the *Class C Bulletin* referred to in Subsection BC.3 above, but must be made available to any faculty member on request.
    - b. The External Faculty Committee's accompanying statement shall be prepared and signed by its chair, and shall reflect the opinion of a majority of the External Faculty Committee. It shall indicate:
      1. Whether in its view the program review process was fair, thorough, impartial, and consistent in its use of appropriate criteria and materials, and
      2. Whether the External Faculty Committee supports or does not support the proposal of the dean or chancellor, giving reasons therefor.

4. Within five instructional days of receipt of the report and statement detailed in Subsection BC.3 above, the Chair of the Faculty Senate, after consultation with the Chair of the External Faculty Committee and with the advice and consent of the Senate Executive Committee, shall appoint a Review Committee consisting of four faculty members (including one designated as committee chair), one member of the External Faculty Committee, one representative of the Graduate and Professional Student Senate or other appropriate recognized graduate student organization, and one representative of the Associated Students of the University of Washington or other appropriate recognized undergraduate student organization (all with full participatory rights). The formation and membership of this committee shall be announced in the *Class C Bulletin* described in Subsection BC.3 above.
5. The Review Committee's primary goal is to review the dean's or chancellor's report from the perspective of the University and the public as described below with particular reference to the justification offered. The Review Committee may receive or request additional materials or arguments from the dean or chancellor, from the External Faculty Committee, from the faculty, students, and staff of the identified program(s), and other constituencies in the University or the public at large. Meetings to invite public comment shall be scheduled at times that permit participation by the public. Within 20 instructional days of its appointment, the Review Committee shall deliver its written recommendation to the President and the Provost. The recommendation shall be transmitted at the same time to the dean or chancellor and to the chair(s) of the affected program(s).
6. Following the submission of the Review Committee's written recommendations, the dean or chancellor may propose a modified course of action, and the affected program(s) may submit an additional statement. This statement may suggest alternatives to the measures proposed by the dean or chancellor, giving detailed reasons based on educational policy and/or past reviews of the program(s) in question, and may include additional relevant documentation. Any such materials must be transmitted to the President and Provost within ten instructional days of the delivery of the Review Committee's report.
7. After the President (or the President's delegate) confers with the Senate Committee on Planning and Budgeting, he or she shall transmit a decision on the matter and accompanying recommendations to the Board of Regents, when required, and to the dean(s) or chancellor(s), the chair(s) of the affected program(s), and the Chair of the Faculty Senate within 15 instructional days of the comment period provided for in Subsection BC.6 above. The President's decision shall take careful account of the impact of the reorganization(s), consolidation(s), or elimination(s) on the University's ability to perform its educational role and mission, and on the diversity of the University community.

**CD. Procedures for Limited Reorganization, and Consolidation, or Elimination of Programs**

1. ~~In order to reallocate resources, implement educational policies, or realign academic priorities, a dean or chancellor may at any time propose the reorganization of one or more programs within a school, college, or campus, or their consolidation with other units. The reallocation of graduate degree programs (Executive Order No. VII, Section 2) from one qualified academic unit (Executive Order No. VII, Section 4) to another, or to an interdisciplinary program within the Graduate School, is a limited reorganization that should follow the procedures outlined in this section.~~ The dean or chancellor shall request authority from the Provost to implement the proposed change. The Provost shall consider such requests in consultation with the Senate Committee on Planning and Budgeting.
2. If the proposed measures will not have the effects described in Subsection B.43 above, the dean or chancellor may proceed with the measures, provided:
  - a. The proposal results from detailed discussion with the affected program(s), and with appropriate faculty advisory committees and students in the school, college, or campus;

- b. A detailed justification of the proposed actions is submitted to the Provost and the Senate Committee on Planning and Budgeting, taking account of the documentation described in Subsection BC.2.f above; and
  - c. The measures are not implemented until the conclusion of a period of 20 instructional days during which the faculty of the affected program(s) may exercise the option described in Subsection CD.3 below.
3. If a majority of the voting faculty in any of the affected academic program(s) determines by a vote that a proposed reorganization or consolidation will have one or more of the effects described in Subsection B.43 above, such majority may petition the Provost for a review under the procedures for reorganization, consolidation, or elimination of programs (under Subsection BC above). The Provost shall consider such petitions in consultation with the Senate Committee on Planning and Budgeting, and within ten instructional days may either direct the dean or chancellor to conduct a review of the proposed reorganization, consolidation, or elimination of program following the procedures described in Subsections A and BC.2 through BC.7 above, or decline to do so, in which case a detailed statement must be transmitted to the petitioners, the dean or chancellor, and to the Chair of the Faculty Senate, explaining this decision.

**DE. Procedures for Reorganization, Consolidation, or Elimination of a College or School**

1. If the Provost and a majority of the members of the Senate Committee on Planning and Budgeting concur that a budget reduction, a reallocation of resources, or a realignment of academic priorities should be achieved by the elimination of a particular college or school in its entirety, or by its reorganization or consolidation with another college or school, the Provost shall request that the Chair of the Faculty Senate appoint a Review Committee of five faculty and the two student members described in Subsection B.4C.3 above.
2. The Provost shall submit to the Review Committee a detailed justification of the proposed measure, prepared on the basis of the materials described in Subsection BC.2.f above and other appropriate planning documents made available by the central administration, provided they have been previously submitted to the dean or chancellor and faculty of the college or school in question for review and comment. The justification shall:
  - a. Review alternatives and explain why elimination of the college or school is preferable; and
  - b. Protect to the maximum extent possible the aspects of the University described in Subsection B.2.gC.1.f above.
3. The Secretary of the Faculty shall publish the Provost's proposal, and the accompanying justification, in a *Class C Bulletin* within five instructional days of receiving them.
4. The Review Committee shall conduct a review of the Provost's proposal in the manner described in Subsection BC.5 above, and shall deliver its written recommendation to the President, Provost, deans or chancellors of the affected college or school, and the Chair of the Faculty Senate, within thirty instructional days of the publication of the *Bulletin*.
5. Following the delivery of the Review Committee's report, the Provost may propose a modified course of action, and the dean or chancellor of the affected college or school may submit an additional statement of the kind described in Subsection BC.6 above. Any such materials must be submitted to the President within ten instructional days of the delivery of the Review Committee's report.
6. Within 15 instructional days of the end of the comment period provided for in Subsection DE.5 above, and after the President (or the President's delegate) confers with the Senate Committee on Planning and Budgeting, he or she shall transmit a final decision and accompanying recommendations to the Board of Regents, when required, the deans or chancellors, and the Chair of the Faculty Senate.

**EF. Procedures for Limited Reorganization and Consolidation of Colleges and Schools**

1. In order to reallocate resources or implement educational policies, or align academic priorities, the Provost may at any time propose the consolidation of colleges and schools. If the proposed measure will not have the effects described in Subsection B.43 above, the Provost may proceed with the measures, provided:
  - a. The proposal results from detailed discussion with the affected colleges or schools, and with appropriate faculty advisory committees in the colleges or schools;
  - b. A detailed justification of the proposed actions is submitted to the President and the Senate Committee on Planning and Budgeting, taking account of the documentation described in Subsection BC.2.f above; and
  - c. The measures are not implemented until the conclusion of a period of 20 instructional days during which the faculty of the affected college/school(s) may exercise the option described in Subsection EF.2 below.
2. If a majority of the voting faculty of an affected college or school determines by a vote that a proposed reorganization or consolidation will have one or more of the effects described in Subsection B.43 above, such majority may petition the President for a review under the procedures for elimination of a college/school. The President, or the President's delegate, shall consider such petitions in consultation with the Senate Committee on Planning and Budgeting, and within ten instructional days may either direct the Provost to conduct a review following the procedures described in Subsection DE above, or decline to do so, in which case a detailed statement must be transmitted to the petitioners and the Chair of the Faculty Senate, explaining why a review under Subsection DE above is not deemed appropriate.

*Approved by:*  
Senate Executive Committee  
October 5, 2015

*Approved by:*  
Faculty Senate  
October 22, 2105

Class A Legislation.

Proposed amendments to the Faculty Code regarding dispute resolution procedures.

Rationale for proposed class a legislation: chapter 27 and 28, dispute resolution.

The Secretary of the Faculty and the University Ombud identified several updates needed in the existing *Faculty Code* language to reflect current requirements and procedures regarding communication between their offices during Conciliatory Proceedings (Chapter 27) and Adjudicative Proceedings (Chapter 28). In addition to minor reorganization of content and editorial changes to increase clarity of the chapter, the following amendments clarify annual reporting requirements for the University Ombud and shift the responsibility of tracking conciliation time limits from the Secretary of the Faculty to the Ombud to reflect actual practice. Lastly, for the purposes of adjudication time limits in Chapter 28, the Ombud would be required to notify the Secretary of the Faculty of the conclusion of a conciliation in addition to the currently required notification of the assignment of a conciliation officer to a case.

University of Washington

## Faculty Code and Governance

### Faculty Code

### Chapter 27

#### Administrative and Conciliatory Proceedings for the Resolution of Differences

This chapter describes the informal proceedings available for the resolution of differences as described in Chapter 25, Section 25-62. The proceedings set forth in this chapter are ~~permissive, not mandatory~~ voluntary. A faculty member may instead initiate a request for adjudicative proceedings, keeping in mind the time limits of Chapter 28, Section 28-35. Should the faculty member choose to engage in administrative and/or conciliatory proceedings prior to seeking adjudication, time limits provided in Chapter 28, Section 28-35 shall be extended for the period required for completion of such proceedings. Administrative and conciliatory proceedings are always available, with no time limits.

#### Section 27-31 Administrative Proceedings

The faculty member may first discuss the issue about which he or she is concerned with the appropriate department chair and, if the faculty member so wishes, the academic dean. The matter may be concluded by mutual consent at this point.

#### Section 27-41 ~~Conciliatory Proceedings~~ Conciliation Officers and Conciliation Board

- A. If the process of resolution by mutual consent under Section 27-31 does not take place or fails, the faculty member or the dean may request the assistance of a conciliation officer as a neutral third party by applying to the University Ombud for the assignment of a conciliation officer. Conciliatory proceedings aim at resolving problems by informal means without resorting to the more formal adjudicative proceedings provided in Chapter 28.
1. Conciliation officers shall be tenured members of the faculty, associate and full professors without tenure for reasons of funding, or emeritus faculty who are familiar with procedures and opportunities for the resolution of disputes or complaints involving faculty members.
  2. There shall be no fewer than six conciliation officers who shall serve three-year terms.
  3. Conciliation officers shall be selected by the President from a list of names exceeding the number of positions to be filled, prepared, and approved by the Senate Executive Committee. Vacancies for the remainder of unexpired terms shall be filled according to this same procedure. Conciliation officers may be reappointed to successive terms by mutual consent of the President and the Senate Executive Committee.
  4. Any conciliation officer may be removed during his or her term of office by concurrent decision of the President and the Senate Executive Committee.
  5. Conciliation officers shall be attached to the Office of the University Ombud but shall be limited in their activity to disagreements arising among faculty members or between individual faculty members and the University administration.
  6. In attempts to achieve conciliation of differences (~~Section 27-41~~), the conciliation officer assigned to a case shall have the assistance and advice of a Conciliation Board, consisting of the University Ombud and the other conciliation officers. The Conciliation Board shall:
    - a. Advise or assist the conciliation officer, at his or her request, on conciliation efforts in which he or she is engaged; and
    - b. Report annually to the President, the Secretary of the Faculty, and the Senate Executive Committee the number of conciliations, if voluntary disposition was or was not achieved, and any ~~as to~~ observed patterns of disputes which have occurred, together with any recommendations to be studied by the appropriate faculty council for legislative consideration.

**67.** The University Ombud, who may consult with the other members of the Conciliation Board (~~Section 27-42~~), shall determine which conciliation officer shall be assigned to a case, and shall inform the Secretary of the Faculty of appointments made. No conciliation officer shall be assigned to a case arising within his or her own school or college.

### **Section 27-42 Conciliation Board Conciliatory Proceedings**

**BA.** The assigned conciliation officer is authorized to investigate the matter, to examine and collect documents and other information, and to discuss the issues with both sides with a view to achieving a mutually agreeable resolution. In discussions with the conciliation officers, only the parties may participate.

**CB.** The assigned conciliation officer shall act as an intermediary. Although free to advise and assist the parties to the dispute in analyzing the situation and in crystallizing the issues, the officer does not serve as a representative or counsel for any party.

**DC.** Statements and information divulged in the course of the conciliatory proceedings shall be privileged and confidential. They may be shared by the conciliation officer only in the course of consultation with the University Ombud and the Conciliation Board. They shall not be used for impeachment purposes nor shall they be discoverable or subject to subpoena or disclosed to anyone else, including the Hearing Committee conducting a subsequent adjudicative hearing, or the other parties involved, or in any other adjudicative or judicial proceeding, without the written permission of the individual who divulged the original information. All materials shall be returned to the appropriate parties at the conclusion of the conciliatory proceedings.

**ED.** Either party may decide to end conciliatory proceedings at any time. Ordinarily, the conciliation effort shall conclude within 60 days of the request for conciliation. The ~~Secretary of the Faculty~~ University Ombud shall keep the parties informed of these time limits. Upon completion or breaking off of the proceedings, the conciliation officer shall take one of two possible actions:

1. If a voluntary disposition was achieved, its results and terms shall, in writing, be given ~~in writing by the officer~~ to the parties to the conciliation and filed with the University Ombud ~~and the Secretary of the Faculty~~.
2. If a voluntary disposition was not achieved, the officer shall, in writing, notify the parties and the University Ombud that the conciliatory proceedings have ended and that adjudicative proceedings may be available, as described in Chapter 28. The faculty member may seek advice from the Secretary of the Faculty or the University Ombud about these procedures.

**FE.** At the termination of a conciliation proceeding, the ~~conciliation officer~~ University Ombud shall promptly report to the ~~Conciliation Board~~ Secretary of the Faculty the date of termination of the proceeding, the general nature of the dispute and whether a mutually agreeable resolution was or was not achieved.

### **Section 27-42 Conciliation Board**

**A.** ~~In attempts to achieve conciliation of differences (Section 27-41), the conciliation officer assigned to a case shall have the assistance and advice of a Conciliation Board, consisting of the University Ombud and the other conciliation officers.~~

**B.** ~~The Conciliation Board shall:~~

- ~~1. Advise or assist the conciliation officer, at his or her request, on conciliation efforts in which he or she is engaged; and~~
- ~~2. Report annually to the President and the Senate Executive Committee as to observed patterns of disputes which have occurred, together with any recommendations to be studied by the appropriate faculty council for legislative consideration.~~

University of Washington

## Faculty Code and Governance

### Faculty Code

### Chapter 28

#### Adjudicative Proceedings for the Resolution of Differences

**RATIONALE:** The Secretary of the Faculty has worked with members of the President's and Provost's offices, the Adjudication Panel Chair, the UW Attorney General's Office, and the University Ombud over the past year to identify updates needed in the existing *Faculty Code* language to fill gaps in processes, add clarity, and to reflect current requirements and procedures. Specific rationale is provided with each modified section below.

This chapter sets forth the adjudicative procedures to be used in resolving disputes involving faculty members that cannot be resolved by informal means. Informal dispute resolution procedures are available at any time during the resolution process, including the time period after a hearing has been requested and before a final decision has been reached. Such procedures include the Conciliation procedure through the Office of the University Ombud. The parties are strongly encouraged to use those procedures and other informal mediation procedures whenever possible.

The adjudicative procedures set forth in this chapter comply with the requirements of the Washington Administrative Procedure Act (Chapter 34.05 RCW). There are two types of adjudication: the brief adjudication, held before a hearing officer and used in cases that do not warrant an extended fact-finding hearing, and the comprehensive adjudication, which uses a hearing officer as well as a faculty panel, or in some cases, a faculty/student or staff panel. Results of brief adjudications are appealable only if the Brief Adjudication Review Panel reverses or amends the decision of the hearing officer. Results of brief or comprehensive adjudications in which the President is a party to the controversy are appealable to the Board of Regents. Results of adjudications in which the President is not a party to the controversy are appealable to the President. Subject to the provisions of Chapter 34.05 RCW relating to exhaustion of administrative remedies, parties shall avail themselves of these proceedings prior to seeking review beyond the University.

#### Section 28-31 Definitions

The following terms used in this chapter shall have the meanings set forth below:

- A. Adjudication Panel** is the standing committee of faculty members, ~~students and staff~~ selected pursuant to Section 28-33, Subsection B. Members of any hearing panel or other decision making group for a specific case are selected from the Adjudication Panel.
- B. Brief adjudication** is an informal adjudication used for cases involving a limited number of persons, simple factual issues and minor impact on the persons involved. Section 28-41 sets forth the types of cases for which brief adjudications are used and the procedures to be followed.
- C. Comprehensive adjudication** is the formal hearing process used for all cases except the minor cases that are resolved with brief adjudications. Sections 28-51 through 28-54 set forth the procedures to be followed.
- D. Hearing officer** is an attorney appointed by the Chair of the Faculty Senate and the President, who performs the following functions:
  - 1. For comprehensive adjudications, he or she coordinates the comprehensive adjudication but generally does not have voting power on the final decision; and
  - 2. For brief adjudications, he or she conducts the adjudication without a hearing panel and is the initial decision maker, subject to review ~~of~~ by a panel of faculty.

3. May be appointed to serve as the Adjudication Panel Chair under Section 28-33 B.

The hearing officer's qualifications and appointment procedure are specified in Section 28-33, Subsection C.

- E. Hearing panel** is a group consisting of members of the Adjudication Panel who preside over comprehensive adjudications. The composition of a panel for specific types of cases, and the method of selecting members of a panel, are set forth in Section 28-33, Subsections D and E. When used alone, the term "panel" refers to a hearing panel.
- F. Day** is any calendar day. Any time period specified in this chapter shall not include the day of the act or event from which the time period begins to run. If the time period specified is less than five days, then "day" shall include only business days.
- G. Party** is the person who has requested an adjudication and the person or persons whose actions or failure to act are identified in the petition as having given rise to the grievance. The term "party" as used herein does not include nonparty participants and does not include persons, such as a dean or the University Complaint Investigation and Resolution Office (UCIRO), who refer a matter to the Provost for possible action pursuant to Section 28-32, Subsection A.
- H. Administrative party of right** is a person, not identified in the petition, who, for good and valid reason, is a necessary party by virtue of being immediately superior in administrative rank to a respondent (for example, the dean of a school or college in which a department chair is a respondent) and whose request to participate in the proceeding has been granted by the hearing officer. The administrative party of right shall participate as a respondent to the petition and shall have the same rights and be subject to the same responsibilities as a party.
- I. Nonparty participant of right** is the person or persons who are alleged to be the victims of any harassment, discrimination or other wrongdoing alleged in the petition, such as a person whose ideas or research allegedly has been misappropriated by a faculty member.
- J. Permissive nonparty participant** is any person who has a substantial interest that will be affected by the outcome of a comprehensive adjudication and whose request to participate in the proceeding has been granted by the hearing officer, pursuant to the provisions of Section 28-51, Subsection A.
- K. Nonparty participant**, where not specified, applies both to nonparty participants of right and to permissive nonparty participants.
- L. Faculty member** is any person who, at the time of the decision, action or inaction being contested, meets the definition of faculty member as set forth in Chapter 21, Section 21-31 and would be eligible to invoke the adjudication procedures of this chapter for resolution of a grievance described in Section 28-32, Subsection B.
- M. Petition** is the document filed by the person requesting an adjudication, in order to begin the adjudication. The contents of the petition and the manner of filing are specified in Section 28-36.

RATIONALE: The record of an adjudication was previously defined only for Brief Adjudications in Section 28-41. The definition has been moved up to the definitions section so that it encompasses all adjudications. Minor changes have been made to reflect some differences with brief adjudications as well as the new Section 28-82.

**N. The Record** of an adjudication or dispositive decision by the Chair of the Adjudication Panel or intermediate panels described below shall consist of only the following:

1. The notice and petition filed by the party initiating the adjudication, all responses filed by other parties, and decisions and appointments of panels and hearing officers by the Chair;
2. Evidence received or considered;

3. All written statements submitted by persons and parties; ~~all written records of oral communication prepared by the hearing officer and circulated to the parties and all amendments thereto that have been submitted;~~
4. The transcript or recording of any hearing held during the course of the adjudication; and
5. In a Brief Adjudication, the record shall also include (a) all written records of oral communication prepared by the hearing officer and circulated to the parties pursuant to section 28-41.C. below, and all amendments thereto that have been submitted, (b) any other document regarding the matter that was considered or prepared by the Brief Adjudication Panel, or by the hearing officer or by the Brief Adjudication Review Panel during review of the hearing officer's decision, and (c) when applicable, the Adjudication Summary prepared by the Chair of the Adjudication Panel.
6. The record shall not consist of deliberations referenced in Section 28-82.

### **Section 28-32 Cases Subject to Adjudications**

- A. If the University Complaint Investigation and Resolution Office (UCIRO), a dean or any other authorized administrative official files with the Provost a written report that claims reasonable causes exist to adjudicate charges that a faculty member has violated University regulations or state or federal laws pertaining to the faculty member's performance of his or her duties, the Provost shall determine whether such reasonable cause exists. If the report is filed by the UCIRO, the Provost shall first appoint a special committee of three faculty members who are not involved in the matter being considered and who are members of the Adjudication Panel. No member of this special committee shall subsequently serve on any panel hearing or review any adjudication arising out of or related to the matters set forth in the report. Based solely on the written record of the investigation, the special committee shall assist and advise the Provost in his or her evaluation of whether reasonable cause exists. If the Provost believes such reasonable cause exists, then, before taking any disciplinary or punitive action against such faculty member, the Provost shall initiate an adjudication for resolution of such charges by filing a petition in the time and manner specified below.
- B. A faculty member may initiate an adjudication under this chapter by filing a petition for adjudication within the time limitations specified in Section 28-35 and in the manner specified below, for resolution of a dispute which falls within one or more of the following categories:
  1. Cases in which it is alleged that an authorized University official, through action or inaction, has violated University regulations thereby affecting the terms, conditions, or course of employment of the petitioning faculty member. Examples of such cases include, but are not limited to, allegations that University regulations were violated in the denial of tenure or promotion or in the process of program elimination.
  2. Cases where the right to an adjudication is specifically granted to a faculty member under another section of the *Faculty Code*.
  3. Cases in which the petitioning faculty member alleges an injustice resulting from decisions, actions, or inactions of any persons acting on behalf of the University in an administrative capacity and affecting the terms, conditions, or course of employment of the faculty member by the University. In cases involving denial of tenure or promotion, program elimination or discriminatory salary reduction, decisions relating to merit or quality of the faculty member can be reviewed only to the extent necessary to determine whether the decision being questioned was affected by factors other than the relevant and permissible considerations in making the particular decision being challenged. Such relevant and permissible considerations are set forth in sections of the *Faculty Code* chapters addressing appointment, promotion and tenure of faculty members, including but not limited to Chapter 24, Sections 24-32, 24-33, 24-34, 24-35 and Chapter 25, Section 25-32, as amended.

For purposes of this section, "injustice" shall include, but is not limited to:

- A. Any action taken that was based at least in part on a legally impermissible reason or on any other reason that was unfair in light of the decision being made; and
- B. Any action that was not supported by an articulated reason that can be shown to be fair and relevant to the circumstances.

### Section 28-33 Adjudication Panel and Hearing Panels

RATIONALE. Changes in this section include:

1. Restricting appointments to the Adjudication Panel to voting or emeritus faculty. Non-voting faculty may not have the institutional experience or scheduling availability to serve on panels. Emeritus faculty have been voting faculty in good standing at the time of retirement and may lend valuable perspectives to the panel. There is no history of non-voting faculty ever being appointed to the adjudication panel, and some members retire during their term and are willing to complete their terms while on emeritus status. As is currently the case, all members nominated by the SEC must be confirmed by the Senate.
2. Appointing staff or student members to the Adjudication Panel only when a case involving a student or staff member is filed. There is no record of any adjudications proceeding with student or staff in recent memory, so requiring regular appointment of these members is an unnecessary use of time and resources. In the case where such appointments are appropriate, the process remains the same.
3. Allowing the appointment of a Vice-chair of the Adjudication Panel. This person would be able to serve in the place of the Chair in the chair's absence or conflict of interest. Allows for appointment of hearing officer as chair of Adjudication Panel if no faculty member can be identified to serve.
4. Restricts hearing officers to attorneys who are not members of the UW faculty. There is no record of current employees of the University faculty or staff having been appointed as hearing officers and explicitly restricting the appointment to individuals external to the UW limits potential conflicts of interest.
5. Reduces the typical size of the hearing panel from 5 members to 3. Scheduling hearings with five members is often challenging and prolongs the adjudication process. At the request of one of the parties, the size of the panel can be expanded to five.

- A. Brief adjudications shall be heard by a hearing officer who has been appointed under the procedures specified below. Every other adjudication under this chapter shall be heard by a hearing officer and a hearing panel, appointed by the Chair of the Adjudication Panel under the procedures specified below.
- B. The Adjudication Panel shall be a standing committee consisting of:
  - ~~1. At least 24 members of the faculty, selected broadly from the colleges, schools, and campuses, nominated by the Senate Executive Committee and approved by the Faculty Senate. Eligible members shall be limited to voting faculty and emeritus faculty who were voting faculty at the time of retirement. Faculty members of hearing panels for specific cases are selected from the Adjudication Panel. Students, staff members, and non-faculty academic personnel may serve on a Hearing Panel on a case by case basis if called to serve under the provisions of Subsection D, below.~~
  - ~~2. At least six student members selected by the ASUW and the GPSS, under procedures established by the ASUW and the GPSS in cooperation with the Chair of the Faculty Senate, and approved by the Faculty Senate (see Class C Resolution at the end of Chapter 28 [Footnote]);~~
  - ~~3. At least six staff members selected by the University Office of Staff Personnel, under procedures established by that office in cooperation with the various organizations representing University employees, and approved by the Faculty Senate. Faculty, student, and staff members of hearing panels for specific cases are selected from the Adjudication Panel.~~

During the selection and appointment process for the Adjudication Panel, the commitment of the University to affirmative action and the necessity of diversity in the decision making body shall be adhered to. ~~The Chair of the Adjudication Panel shall be nominated annually by the Senate~~

~~Executive Committee from among the Adjudication Panel faculty members and shall be approved by the Senate.~~ No department chair, school director, assistant dean, associate dean, dean, vice chancellor, or chancellor shall serve on the Adjudication Panel. Faculty and staff Adjudication Panel members shall serve three-year terms. ~~Student Adjudication Panel members shall serve one-year terms.~~ Adjudication Panel members and the Chair of the Adjudication Panel are eligible for reappointment except that in the event that a panel member has served two consecutive terms, then such a member shall be ineligible for reappointment for a period of three years. A Chair and Vice-chair of the Adjudication Panel shall be nominated annually by the Senate Executive Committee from among the Adjudication Panel faculty members and shall be approved by the Senate. In the extraordinary event that a Chair and/or Vice-Chair cannot be identified from among the faculty, a Hearing Officer may be temporarily appointed in the same manner to serve as Adjudication Panel Chair.

- C. At least three hearing officers shall be appointed jointly by the President and the Chair of the Faculty Senate. The terms and conditions of a hearing officer's appointment shall be determined jointly by the President and the Chair of the Faculty Senate. All such hearing officers must be attorneys admitted to the practice of law in at least one United States jurisdiction and shall have knowledge of hearings procedures and university and faculty matters. No University of Washington employee ~~department chair, school director, associate dean, or dean~~ shall serve as a hearing officer.
- D. All comprehensive adjudications involving a non-party participant of right who is either a student, staff member, ~~or non-faculty academic personnel~~, shall be heard by a hearing officer and, unless waived by all of the parties, a hearing panel composed of:
- ~~1. Two student members of the Adjudication Panel (in a case involving allegations by a student) or two staff members of the Adjudication Panel (in a case involving allegations by a staff member), and~~
  - ~~2.1. Five~~ Three faculty members or, upon the request of one party, with the unanimous consent of the parties, three ~~five~~ faculty members of the Adjudication Panel ~~and,~~
  - ~~2. In a case involving arising from allegations by a student, two student members, who shall be appointed from a list of at least six eligible students selected by the ASUW and the GPSS, under procedures established by the ASUW and the GPSS, and approved by the Faculty Senate Chair, or~~
  - ~~3. In a case involving arising from allegations by a staff member or non-faculty academic personnel, two staff members from the relevant constituency, who shall be appointed from a list of at least six eligible candidates, nominated by the Secretary of the Faculty, in consultation with the campus organization(s) most closely representing the constituency of the non-party participant, and approved by the Faculty Senate Chair.~~
- E. All other adjudications shall be heard by a hearing officer and a hearing panel of ~~five~~ three faculty members, except that upon the request of at least one of the parties, the hearing panel may ~~shall be reduced~~ increased to three ~~five~~ faculty members, or with the unanimous consent of the parties the hearing panel may be waived.
- F. The role of the hearing officer serving with a hearing panel on a comprehensive adjudication shall be that of administrative coordinator. The hearing officer shall not have a vote on the final decision of the panel or on interim decisions of the panel while the adjudication is pending, except as specifically noted below. The hearing officer shall be responsible for communications between the parties and the panel while the adjudication is pending and shall be responsible for conducting the adjudication in compliance with the *Faculty Code* and any applicable law. All actions other than the final decision that are to be taken by the panel under this chapter may be taken by the hearing officer if so directed by the panel. The hearing officer shall make all legal rulings, as specified below, but any such rulings, including procedural decisions and interpretations of the *Faculty Code* or applicable law, are subject to revision or reversal by the hearing panel.
- G. In selecting members of a particular hearing panel, the Chair of the Adjudication Panel shall attempt to achieve the highest degree of diversity and impartiality and make every possible effort to select

panel members with differing backgrounds that the chair deems relevant to the issues at hand and the persons involved. This requirement is especially important to observe in cases where unlawful discrimination is alleged. The purposes of this provision are to broaden the perspective of the panel, and increase the panel's ability to understand the motivations of the persons involved.

- H. The role of any member of a hearing panel, including students or staff, or non-faculty academic personnel who may serve on a panel, shall be that of an impartial fact finder and judge and shall not be that of an advocate for any of the parties to the adjudication.
- I. Hearing panels may, but are not required to, meet during the period of June 16 through September 15.

#### **Section 28-34 Burden and Standard of Proof**

The burden of proof with respect to claims made in the petition that commences an adjudication under this chapter is on the party filing the petition. The burden of proof with respect to any counter claims made by a party in a responsive pleading is on that party. The applicable standard of proof for all adjudications under this chapter shall be the preponderance of the evidence.

#### **Section 28-35 Time Limitations on Initiating Adjudications**

- A. In order for the Provost to initiate an adjudication pursuant to Section 28-32, Subsection A, the Provost shall file a Notice of Request for Adjudication and a petition in the form and manner specified in Section 28-36 within 30 days after receipt by the Provost of the written report alleging that reasonable cause exists to adjudicate charges against a faculty member; provided that in cases where the report was filed with the Provost by the University Complaint Investigation and Resolution Office (UCIRO), the Provost shall file the Notice of Request for Adjudication and petition within 45 days after receipt by the Provost of such report.
- B. In order for a faculty member to initiate an adjudication pursuant to Section 28-32, Subsection B, the faculty member shall file a Notice of Request for Adjudication and a petition in the form and manner specified in Section 28-36 and within:
  1. Ninety days after the faculty member has received notice of the action, decision or inaction that gives rise to the faculty member's right to an adjudication under Section 28-32, Subsection B; or
  2. Ninety days after the faculty member has discovered or reasonably should have discovered the action, decision or inaction or the underlying facts regarding such action, decision or inaction that gave rise to the faculty member's right to adjudication, if later than Subsection B.1. Notwithstanding the foregoing, the time periods specified in Subsection B.1 and this subsection shall be suspended during the period of June 16 through September 15 if the faculty member's contract does not include such period.

RATIONALE: TIME LIMITS ON FILING ADJUDICATIONS. The change in C. (below) clarifies that time limits are suspended for informal dispute resolution for which specific records of initiation and termination dates are kept and thus can be documented. Informal discussions among parties or with the Ombud, where the start and end dates are not documented, would not be included in the mandatory suspension of the time limits, although the parties retain the right (described in D, below) to specifically argue that time limits be suspended on the grounds of a gross injustice. Adding the term "specifically" to D. clarifies that the burden to argue a gross injustice rests with the party bringing the adjudication.

- C. Notwithstanding Subsections A and B of this section, if the parties choose to engage first in informal dispute resolution ~~proceedings activities~~, such as ~~mediation or the conciliatory conciliation~~ as described in Chapter 27 or mediation, and such ~~proceedings activities~~ are commenced within the time limits required above for commencement of an adjudication, then the time limits required in this section for commencement of an adjudication shall be suspended until such informal dispute resolution ~~proceedings activities~~ are completed. If the informal dispute resolution ~~proceedings activities~~ do not resolve the dispute, then an adjudication must be initiated within 30 days of the conclusion of such ~~proceedings activities~~. ~~A party initiating an adjudication~~ All parties involved in a dispute shall provide written notice to the Secretary of the Faculty of the ~~dates of the beginning and~~

conclusion commencement of any informal dispute resolution proceedings activities. Any party who is no longer willing to participate in informal dispute resolution activities shall notify the Secretary of the Faculty and the other parties, and this shall end the suspension period.

- D. If a party does not file a Notice of Request for Adjudication and petition within the time limits prescribed in Subsections A, B and C above, then the right to an adjudication shall terminate. Notwithstanding the foregoing, if a faculty member files a Notice of Request for Adjudication and a petition after the time limits prescribed in Subsections A, B and C above have expired, and such notice and petition specifically and expressly allege that circumstances exist which would make it grossly unjust to refuse to grant the adjudication on the basis of untimeliness, then the Chair of the Adjudication Panel shall appoint a special committee of three panel members. The special committee shall determine whether the adjudication should be granted despite the untimely filing, on the grounds that it would be grossly unjust to refuse to grant the adjudication. In making such determination, the following factors shall be considered by the special committee:
1. The seriousness of the actions, events, or decisions from which a claim for relief allegedly arises, and the seriousness of the alleged impact on the person seeking relief.
  2. The reasons for the untimely filing and the extent to which they were or were not within the control of the person seeking relief.
  3. The degree of probable prejudice to other parties to the adjudication if the adjudication is granted. The special committee shall make its determination within ten days of notice of its appointment.

### Section 28-36 Manner of Initiating Adjudications

RATIONALE: Changes below are proposed to update the Faculty Council to reflect current procedural practices and also 1) allows the Adjudication Panel Chair to, in certain circumstances, recommend to the hearing panel measures to increase efficiency of the adjudication process and 2) postpones distribution of materials to hearing panel members until all challenges have been resolved.

- A. The person requesting an adjudication shall file a Notice of Request for Adjudication and a petition with the Secretary of the Faculty. The Secretary of the Faculty shall maintain and make available upon request written procedures for filing an adjudication petition and may decline to accept an incomplete or improperly submitted petition. Until a petition is accepted by the Secretary of the Faculty, it shall not be deemed filed for purposes of evaluating it under the time limits prescribed. The Notice of Request for Adjudication shall be substantially the same form as prescribed by the Adjudication Panel and made available to the Provost and faculty members. The petition shall set forth with reasonable particularity the ~~reason basis~~ for the request for adjudication under Section 28-32, the relief sought, and the facts relied upon as the grounds for the petition and the relief sought. If the Provost is the requesting party, the Provost shall include a copy of the written report from the University Complaint Investigation and Resolution Office (UCIRO), the dean, or other administrative official that forms the basis of the request for adjudication. Within seven days of receipt of a notice and petition, the Secretary of the Faculty shall ~~prepare an Adjudication Summary form that sets forth the names of the persons receiving the notice and petition, the persons who are required to respond and the time limits and procedure to follow when responding,~~ and deliver complete copies of the notice, the petition, and the ~~summary~~ time limits and procedures for response to the Provost, the Chair of the Adjudication Panel, other parties, nonparty participants of right, if any, and any other faculty member, dean, or official of the administration, student or staff member who is named in the petition.
- B. Any party against whom relief is sought shall respond to the petition by filing a response, which sets forth which facts of the petition are accepted and which are contested and any further assertions of fact or reasons why the relief requested should not be granted. The response shall be filed with the Secretary of the Faculty within 30 days of receipt of the notice, ~~and petition and summary.~~ The Secretary of the Faculty shall deliver complete copies of the response within seven days of receipt to all persons ~~listed on the summary~~ who have received copies of the notice and petition. Notwithstanding the foregoing, the time period for filing the response shall be suspended upon commencement of informal dispute resolution proceedings activities after the filing of the notice and petition but before the due date of the response. In the event that informal dispute resolution proceedings activities have been initiated, the ~~University Ombud or such other person who has been requested to conduct the informal dispute resolution proceeding~~ parties shall provide written notice to

the Chair of the Adjudication Panel and to the Secretary of the Faculty. If the informal dispute resolution ~~proceedings activities~~ terminate without resolving the dispute, a party shall notify the Chair of the Adjudication Panel and the Secretary of the faculty. The response shall be due on the later of ten days after the termination of such ~~proceedings activities~~ and the expiration of the original 30-day period for filing the response excluding the days during which the conciliation proceeding was open.

- C. Within 14 days of receipt of the response, or within 14 days after expiration of the 37-day period following receipt of the notice and petition, whichever is earlier, the Chair of the Adjudication Panel shall:
- Determine whether the notice and petition have been properly and timely filed. In determining timeliness, the Chair shall have discretion to consider a petition, or response timely if the Chair determines that there has been a minor and nonprejudicial clerical or counting error in determining the applicable time limits;
  - Determine whether a brief adjudication is appropriate under the provisions of Section 28-41 below, and if so, appoint a hearing officer to conduct the adjudication;
  - Identify the parties and the nonparty participants of right, if any, to the adjudication;
  - If a comprehensive adjudication is required, appoint the hearing officer, determine the appropriate composition of the hearing panel and appoint the members of such panel, under the provisions of Section 28-32 above.
  - Determine, either upon the Chair's own motion or motion of any party, whether two or more petitions by one or more parties should be consolidated for hearing before a single hearing panel because the petitions contain related or substantially similar grievances or the petitions arise out of the same or similar factual circumstances.
  - Make suggestions to the Hearing Panel regarding possible procedures to expedite the hearings, including, but not limited to summary disposition based only on documentary evidence, including affidavits and declarations.

Where students, ~~or staff,~~ or non-faculty academic personnel are to be members of the panel, the Chair shall notify the Secretary of the Faculty who shall appropriate personnel and coordinate the selection of those persons.

Once the above specified determinations are made and the hearing panel, if required, is appointed, the Chair shall promptly notify the person who filed the notice and petition and all persons who are entitled to receive a copy of the notice and petition, as specified above, of such determinations, ~~and the identity of the hearing officer and hearing panel members, and the rights of the parties to challenge appointees for cause as provided in Section 28-37.~~ The Chair shall immediately give copies of all documents filed in the matter to the hearing officer and each member of the hearing panel. The Chair shall also promptly deliver to any nonparty participants of right a statement of their rights of participation in the adjudication.

- D. At any time after ~~the petition has been filed~~ allegations have been made, if a dean, chancellor or Provost believes there are compelling circumstances, such as danger to the health or safety of members of the University community, that warrant ~~the suspension~~ reassignment of the faculty member from teaching or other duties pending resolution of the adjudication allegations, the dean, chancellor or Provost may, after consultation with the Chair of the Faculty Senate, ~~suspend~~ reassign the faculty member for a period not to exceed the duration of the Section 25-71 process and any resulting adjudication and assign the ~~suspended~~ reassigned faculty member to other duties as the dean, chancellor or Provost deems appropriate. The faculty member's regular salary, benefits and other privileges shall continue during such ~~suspension~~ period of reassignment. A decision to ~~suspend a faculty member under this section~~ shall comply with the requirements of RCW 34.05.479 to the extent applicable, including the requirements of maintaining an official record and preparing a written order with findings of fact, conclusions of law and policy reasons.

### **Section 28-37 Disqualification of Adjudication Panel Chair, Hearing Officer and Panel Members**

RATIONALE: This section now allows for a challenge to the adjudication panel chair and provides for a Vice chair to replace the chair should such a challenge be upheld.

- A. The adjudication panel chair. A a member of a hearing panel, or the hearing officer, shall disqualify himself or herself upon his or her own initiative immediately upon discovery of a cause for disqualification. Cause for disqualification shall include:
1. Reason to believe that some personal consideration or relationship might interfere with the hearing officer's or panel member's ability to reach an unbiased decision;
  2. The hearing officer or panel member, outside of the proceedings, has received communications or has obtained information which creates a significant risk of substantial unfairness; or
  3. The matter directly involves a departmental colleague or, if the matter involves a faculty member from a non-departmentalized school or college, a college or school colleague of the panel member or the hearing officer.
- B. Any party or nonparty participant to the adjudication may challenge the adjudication panel chair, any panel member, or the hearing officer, for cause for the reasons stated in Subsection A above. If the facts supporting the disqualification are then known to the party or nonparty participant, the challenge must be made in writing to the ~~Chair of the Adjudication Panel~~ Secretary of the Faculty within seven days after receipt of notice that the person being challenged is the adjudication panel chair, assigned hearing officer or a panel member. A copy of the written challenge shall also be provided to the other persons entitled to receipt of Notice of Request for Hearing. If the facts supporting the disqualification are discovered after notice of the person's appointment, the challenge shall be made in the same manner described above within seven days of discovery of such facts, and the written challenge shall include a statement regarding the circumstances of discovery of such facts. The Secretary of the Faculty shall appoint a disinterested Hearing Officer to review any such challenge to the Adjudication Panel Chair and decide whether there is sufficient cause to disqualify the challenged panel chair. If the panel chair is disqualified, the Vice-chair of the adjudication panel shall assume the responsibilities of the chair for all decisions relating to the matter(s) in question. The Chair of the Adjudication Panel shall review any such challenge to the hearing officer or panel members and decide whether there is sufficient cause to disqualify the hearing officer or challenged panel member.
- C. A hearing officer serving with a panel and the Chair of the Adjudication Panel may disqualify any member of such panel for failure or inability to make himself or herself available for the necessary proceedings, for repeated absences from the panel meetings required under this chapter, or for failure to familiarize himself or herself with the record of the adjudication or the necessary procedures.
- D. If a hearing officer is disqualified, the Chair of the Adjudication Panel shall appoint another hearing officer. If a panel member is disqualified, then at the discretion of the Chair of the Adjudication Panel, the Chair shall either appoint another member of the Adjudication Panel to the hearing panel, or, if the adjudication is in a later stage, continue the adjudication with the remaining panel members.
- E. Upon finalization of the initial appointments of the hearing officer and hearing panel members, including the consideration of any challenges filed within the initial time limit of seven days, the Secretary of the Faculty shall immediately distribute to each of them copies of all documents filed in the matter.

#### **Section 28-41 Brief Adjudications**

- A. The Chair of the Adjudication Panel shall, pursuant to Section 28-36, Subsection C, determine that a brief adjudication be used for all cases whose sole issue is one of the following:
1. The allocation of discretionary or merit salary increases;
  2. The allocation of space, support staff, or other resources or materials;
  3. Teaching, committee or other assignments within the department, school or other unit;
  4. A conflict between or among faculty members, other than claims of sexual, racial, or other legally impermissible discrimination or harassment or claims of scientific or scholarly misconduct; or

RATIONALE: Given that Brief Adjudication Panels are rarely employed, practice has been to appoint a BAP when the need arises, rather than having a standing Panel. The following change codifies that practice.

5. Any other issue which ~~a the Chair and two members of the~~ Brief Adjudication Panel determines is appropriate for brief adjudication. ~~In making determinations of whether a brief adjudication is appropriate for a particular case~~ The Chair shall employ a Brief Adjudication Panel pursuant to this section, if the Chair determines that:
- a. The case does not fall clearly within one of the categories specified in Subsections A.1 through A.4 above but which may nevertheless be appropriate for a brief adjudication, or
  - b. It is unclear for any other reason whether a brief adjudication would be the appropriate procedure.

In a case involving Subsection A.5, ~~The~~ Chair shall convene a committee consisting of himself or herself and any two members of the ~~Brief Adjudication Panel~~ to constitute a ~~The~~ Brief Adjudication Panel ~~shall be a standing committee consisting of five members of the Adjudication Panel appointed from time to time by the Chair of the Adjudication Panel.~~ ~~The Chair and the two members of~~ The Brief Adjudication Panel shall review the matter, confer, and make a decision whether a brief adjudication is appropriate for the case at issue. The review shall include consultation with any faculty member whose interests would be directly affected by the adjudication and review of records of any previous Brief Adjudication Panel decisions for similar cases. The decision shall be made with sufficient speed so that the Chair may make the necessary determinations and appoint a hearing officer and a hearing panel, if necessary, within the time limits specified in Section 28-36, Subsection C. The Chair shall prepare a written report summarizing the nature of any case submitted to a Brief Adjudication Panel, the decision made as to the type of adjudication to be used and the basis of such decision and shall include such report in the records of the Adjudication Panel. If the Chair and the two members of the Brief Adjudication Panel decide that a comprehensive adjudication is appropriate, none of the members of the Brief Adjudication Panel making such decision will serve on the hearing panel for that case.

- B. Notwithstanding the foregoing, a brief adjudication shall not be appropriate for a case in which any one of the following factors is present:
1. Complex factual issues that require a formal fact finding process for resolution;
  2. A significant sanction or other significant adverse impact on the faculty member, such as discharge of employment or revocation of tenure, if the decision is adverse to the faculty member;
  3. Significant impact on the affected faculty member's academic career;
  4. A relatively large number of persons involved in the dispute or affected by its outcome;
  5. A series of actions or non-actions that taken alone are not significant but together exhibit a pattern of unfairness;
  6. Allegations of unlawful discrimination; or
  7. The protection of the public interest requires notice and an opportunity to participate to be given to persons other than the parties, including persons who would qualify as nonparty participants under the definition herein.
- C. Upon appointment, the hearing officer shall review the documents on file in the matter and conduct an investigation of the matter. The initial investigation, at the discretion of the Hearing Officer, may include any of the following:
- Meeting with the parties, together or separately;
  - Communicating with the parties through mail or by telephone;
  - Communicating with any other person that the hearing officer thinks can provide information relevant to the dispute; and
  - Requesting relevant documents from any person.

As part of the investigation, the hearing officer must contact each of the parties and give each of them an opportunity to present written and/or oral evidence (determined at the discretion of the hearing officer) supporting the party's position in the matter and a written or oral statement of the party's position. The decision to restrict the parties' responses to written submissions and the decision of whether an informal hearing where all parties are present and are allowed to present oral statements and evidence are at the sole discretion of the hearing officer. If the hearing officer determines that an informal hearing is appropriate, the hearing officer shall schedule such hearing at a time convenient

for all the parties, that is at least ten days and no more than 14 days following the date of appointment of the hearing officer. At least five days prior to such a hearing, the hearing officer shall notify the parties in writing as to the issues that may be addressed at the hearing, the evidence that will be relevant at the hearing and the general procedures to be followed at the hearing. The hearing shall be either recorded (sound only or video), or transcribed by a court reporter, as determined by the hearing officer. The hearing officer shall make a contemporaneous written record of any oral communication (in person or by telephone) relating to the investigation which is not heard by a party and shall distribute such written record immediately to all parties and to the person with whom the communication occurred. If the person with whom the communication occurred has a different recollection of the conversation, that person shall immediately deliver to the hearing officer a written statement detailing the differences. The hearing officer shall immediately deliver such a statement to the parties and shall include such statement in the written record of the proceeding.

- D. If the hearing officer discovers in the course of investigation that the issues are sufficiently complex or there are other factors that indicate that a comprehensive adjudication is required for fair resolution of the matter, the hearing officer will immediately notify the Chair of the Adjudication Panel and the parties of such determination. Upon receipt of such notification, the Chair of the Adjudication Panel shall appoint a hearing panel under the procedures described in Section 28-33 and the matter will proceed as a comprehensive adjudication. At any time during the course of a brief adjudication a party may request that the adjudication be converted to a comprehensive adjudication by giving notice to the hearing officer and the other parties of such request together with a statement of the reasons why a comprehensive adjudication is required for a fair resolution of the matter. The hearing officer will rule on such a request within two days of receipt. If the hearing officer rules against such conversion, the brief adjudication will proceed and the party requesting the conversion may again request a comprehensive adjudication during the appeal process of the hearing officer's decision, as provided below in Section 28-61.
- E. Within 30 days of appointment, the hearing officer will render a written decision to the parties, together with a brief statement as to the reasons for the decision and a statement of the parties' rights to appeal the decision.

~~F. The record of a brief adjudication shall consist of only the following:~~

- ~~1. The notice and petition filed by the party initiating the adjudication, all responses filed by other parties, and the Adjudication Summary prepared by the Chair of the Adjudication Panel;~~
- ~~2. Evidence received or considered;~~
- ~~3. All written statements submitted by persons and parties, all written records of oral communication prepared by the hearing officer and circulated to the parties and all amendments thereto that have been submitted;~~
- ~~4. The transcript or recording of any hearing held during the course of the adjudication; and~~
- ~~5. Any other document regarding the matter that was considered or prepared by the hearing officer or the Brief Adjudication Review Panel during review of the hearing officer's decision.~~

### **Section 28-51 Comprehensive Adjudications—Nonparty Participants**

- A. The hearing officer may grant a petition filed at any time for participation as an administrative party of right upon determining that the petitioner is a necessary party or by virtue of being immediately superior in administrative rank to the respondent. Such person's status as an administrative party of right shall commence only upon issuance of an order from the hearing officer allowing such person's participation.
- B. In addition to the persons who may be nonparty participants of right, the hearing officer may grant a petition filed by any person at any time for permissive nonparty participation, upon determining that the petitioner has a substantial interest that will be affected by the outcome of the adjudication, that participation by such party in the adjudication is necessary to protect that interest and participation by that party will not unduly delay or prejudice the determination of the rights of the parties to the adjudication. Such person's status as permissive nonparty participant shall commence only upon issuance of an order from the hearing officer allowing such person's participation. The hearing officer has the discretion to impose conditions on such person's right to participate and may limit his or her rights to participate, either at the time that the right to participate is granted or at any subsequent

time. For a comment on nonparty participants' right to be represented by counsel, see Section 28-52, Subsection G below.

- C. All nonparty participants, both of right and permissive, in addition to the right to challenge the hearing officer or a member of the hearing panel for cause as provided above, shall have the following rights of participation in the adjudication:
1. Right to receive copies of all documents filed in the adjudication, within the same time limits as such copies are required to be delivered to the parties in the adjudication.
  2. Right to timely notice of date, place and time and to attend the prehearing conference, the hearing, and any interim proceedings.
  3. Right to file written independent statements and responses to documents filed by the parties at any time prior to the hearing (including written statements and responses regarding a pending motion for summary disposition under Section 28-52, Subsection D), provided that any such statements or responses are delivered by the nonparty participant to each party to the adjudication within two days of delivery to the hearing panel.  
In addition to the above listed rights, a nonparty participant may, at the discretion of the hearing officer and the panel, be granted the following rights of participation:
  4. Right to have counsel accompany them to all proceedings.
  5. Right to be represented by counsel during the proceedings, provided that if the parties choose not to be represented by counsel [see Section 28-52, Subsection G], then a nonparty participant may not be represented by counsel.
  6. Right to cross-examine witnesses, introduce evidence and call additional witnesses during the hearing, either on his or her own behalf or through counsel, subject to the limitation in Section 28-51, Subsection B.5.
  7. Right to give opening and closing statements, either on his or her own behalf or through counsel.
  8. If unable to be present at the hearing or any preliminary proceeding, the right to be represented at the hearing and all preliminary proceedings by a special representative chosen by the nonparty participant and approved by the hearing officer.
  9. Such other rights of participation in the adjudication as the hearing officer or hearing panel determines to be conducive to a fair and efficient hearing.

A nonparty participant shall have the rights specified in Subsections C.4 through C.9 above only to the extent the hearing officer or hearing panel has determined to be conducive to a fair and efficient hearing and which would aid in the panel's resolution of the matter.

The hearing officer shall make an initial determination prior to the prehearing conference as to the additional rights of participation, if any, that shall be given to the nonparty participant. The nonparty participant and any party may file a written request with the hearing officer prior to the prehearing conference regarding the extent of a nonparty participant's participation rights, and may make an oral request regarding participation rights at the prehearing conference. The determination of the extent of a nonparty participant's participation rights shall be made by the hearing officer, subject to revision by the hearing panel, and shall be included in the Prehearing Order. The Chair shall promptly deliver to any nonparty participants of right a statement of their rights of participation in the adjudication.

#### **Section 28-52 Comprehensive Adjudications—Preliminary Proceedings**

- A. At the request of any party or on the panel's own motion at any time after the response has been received, the hearing panel may determine that the adjudication or a particular claim or issue material to the adjudication should be resolved by summary disposition without a fact-finding hearing.

If the answering party alleges or the panel preliminarily concludes that the petition does not present a controversy under Section 28-32 that entitles the petitioner to a hearing when all factual allegations are viewed in the light most favorable to the petitioner, the panel shall give notice to the parties and any nonparty participants of:

1. The deadline for submission of written offers of proof by affidavit or otherwise, and for submission of argument, and
2. At the panel's option, a hearing concerning the proper interpretation and scope of Section 28-32.

The panel shall issue a decision to grant or deny summary disposition within five days after the submission of the written materials or the conclusion of any hearing. If summary disposition is granted the panel shall dismiss the petition and issue a decision pursuant to Section 28-54.

- B. As soon as possible after appointment, the hearing officer and hearing panel shall review the pleadings filed, identify the issues and discuss an initial plan for the conduct of the hearing. Such plan shall include the preliminary determination of the extent to which any nonparty participant will be allowed to participate. The hearing officer and hearing panel shall immediately consult with the parties and any nonparty participants as to a convenient time and place to hold the prehearing conference.
- C. Within ten days after appointment of the hearing panel, the hearing officer, at the direction of the hearing panel, shall prepare and deliver to the hearing panel, the parties and nonparty participants a Notice of Prehearing Conference, specifying the time and place of the prehearing conference. Such notice shall inform the parties as to the hearing officer's and panel's initial plan for the hearing and preliminary determinations, such as the extent of participation rights of nonparty participants and identification of issues, including all issues that the hearing officer and panel view as uncontested or irrelevant to resolution of the dispute. Such notice may further identify the evidence, including documents and witness testimony, that the hearing officer and panel consider necessary at the hearing. The prehearing conference shall be held no later than 20 days after appointment of the hearing panel.
- D. All parties and nonparty participants and their legal counsel (if otherwise allowed) shall be entitled to be present at the prehearing conference. The hearing officer and the entire hearing panel shall also be present. The hearing officer shall preside over the prehearing conference. At the prehearing conference, the hearing officer, the panel and the parties shall discuss and agree upon the evidence to be presented and the issues to be addressed at the hearing. The hearing officer, the panel and the parties shall also agree upon any issues that can be settled by the parties before the hearing, or are uncontested or irrelevant to the adjudication, provided that if the parties cannot reach agreement on these matters the decision of the panel shall control. The hearing officer, panel, and the parties shall also discuss the feasibility of informal dispute resolution procedures to attempt settlement of the dispute before the hearing. If the parties agree to informal dispute resolution procedures, then the adjudication process shall be suspended while such procedures are pursued. Any nonparty participants present at the prehearing conference shall be allowed to participate in the discussion and the decision making to the extent determined by the hearing officer and hearing panel.
- E. Unless the adjudication has been disposed of completely by summary disposition, the hearing officer, at the direction of the panel, shall issue a Prehearing Order within 15 days of the prehearing conference, which shall set forth the issues to be addressed at the hearing, the factual issues which are uncontroverted, the witnesses to be called and the other evidence to be presented, the extent to which any discretionary rights to participate will be given to nonparty participants, the extent to which depositions, requests for admission and any other form of discovery will be allowed and any other matters the hearing panel shall deem appropriate in setting the procedure to be followed at the hearing. Such notice shall also set the time and place of the hearing and shall contain the information required by RCW 34.05.434. The hearing shall be set no less than ten days and no more than 30 days after the notice of the prehearing conference was issued.
- F. The Prehearing Order shall specify whether the adjudication shall be open or closed. A determination at a later date that the hearing should be closed shall be made by written protective order.

- G. Any faculty member who is a party to a proceeding under this chapter shall have the right to be represented by counsel at all stages in the proceedings. Normally, if the faculty member chooses not to be represented by counsel at proceedings before the hearing panel and/or the hearing officer, the administration will not be so represented, except in cases where the faculty member is an attorney. Where the faculty member chooses to be represented by counsel, the administration shall not be obligated to reimburse the faculty member for the attorneys' fees and costs he or she incurs, except as provided under Section 28-54, Subsection B.
- H. If after the Prehearing Order is issued, a party shall receive additional information, the party may request that the panel amend the Prehearing Order to allow the presentation of such additional information at the hearing and may request leave to amend its pleadings on file. Such request shall be served on all parties and nonparty participants. The hearing panel has full discretion to allow or deny such request and may grant a continuance if a non-requesting party needs additional time in which to prepare for and respond to the additional information.
- I. The hearing officer may instruct any person who is a party to the adjudication or an administrative officer or administrative employee of the University to appear and to give testimony under oath or affirmation, or to produce a specific document or other thing belonging to a party or to the University relevant to the issues in the adjudication.
1. If the person to whom the instruction is directed is a non-administrative party to the adjudication and that person refuses or fails to appear at the time and place designated to give testimony or to produce the documents or things specified:
    - a. If the hearing officer finds that the testimony, documents, or things sought are under the control of the non-administrative party to produce and are not privileged for purposes of the adjudication, then the hearing panel may impose such sanctions as are appropriate.
    - b. Sanctions may include dismissal of the adjudication or the drawing of inferences, to be stated in the record, with respect to the issues to which the evidence sought would have been relevant, adverse to the position of the faculty member or other party to the adjudication.
  2. If the person to whom the instruction is directed is an administrative officer or administrative employee of the University and refuses or fails to appear at the time and place designated to give testimony, or to produce the documents or things specified:
    - a. The hearing officer shall inform the President in writing of such refusal or failure and of the probable relevance of the testimony or documents or things sought.
    - b. Unless the President determines that the information sought is legally privileged from disclosure, or subject to overriding University policies as to confidentiality, the President shall take such steps as may be necessary to enforce compliance with the instruction.
    - c. If the President refuses or fails to secure such compliance, and if the hearing panel determines that the testimony, documents, or things sought are not legally privileged or confidential for purposes of the adjudication, then it may impose such sanctions as it deems appropriate. These sanctions may include dismissal of the adjudication or the drawing of inferences, to be stated in the record, with respect to the issues to which the evidence sought would have been relevant, adverse to the position of the University or administrative officer in the adjudication.
  3. Statutory powers of subpoena are available to the hearing panel as specified in RCW 34.05.588(1).
- J. In the discretion of the hearing officer, and where the rights of the parties will not be prejudiced, all or part of any meeting or conference required hereunder may be conducted by telephone, television or other electronic means. Each participant in the conference or meeting must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place.
- K. The hearing officer may at any time issue any discovery or protective orders that he or she deems appropriate, and such orders shall be enforceable under the provisions of Chapter 34.05 RCW regarding civil enforcement of agency actions.

**Section 28-53 Comprehensive Adjudication—Procedure at Hearing**

- A. In both open and closed proceedings before a hearing officer and hearing panel the following persons are entitled to be present:
1. The parties and nonparty participants of right and their advisors and representatives, to the extent advisors and representatives are allowed under other terms of this chapter. Advisors may be present but may not speak on behalf of the parties in the proceedings unless agreed to by both parties.
  2. The hearing officer, the hearing panel members and a secretary or recorder.
  3. Persons serving in an advisory capacity to the panel, unless their presence is objected to for cause by either party and the panel sustains the objection.
  4. Witnesses and their advisors, except that the hearing officer may upon a showing of good cause, as specified in the record of the proceeding, exclude witnesses and their advisors from the hearing room except while testifying.
  5. Such other persons as specifically authorized by the hearing officer or the panel, unless their presence is objected to by either party and the objection is sustained.
- B. The hearing shall either be recorded, audio only or video, or transcribed by a court reporter, as determined by the hearing panel. Such recording or transcription shall be made at University expense. Copies of the recording or transcript shall be made available to any party or nonparty participant of right at University expense upon request.
- C. If the facts in the case or relief requested are in dispute, testimony of witnesses and other evidence relevant to the issues and to the relief requested shall be received if offered. The hearing officer may admit and consider evidence on which reasonably prudent people are accustomed to rely in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law, shall exclude evidence that is excludable on constitutional or statutory grounds and may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence, and evidence whose probative value is substantially outweighed by the danger of undue prejudice to any party or nonparty participant. The hearing officer and the hearing panel shall refer to the Washington Rules of Evidence as non-binding guidelines for evidentiary rulings. All testimony of parties and witnesses shall be given under oath or on affirmation. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. Official notice may be taken of any judicially recognizable facts and codes or standards that have been adopted by an agency of the United States, this state or another state or by a nationally recognized organization or association. Parties and nonparty participants shall be notified either before or during the hearing of the material so noticed and the sources thereof and shall be afforded an opportunity to contest the facts and materials so noticed (except to the extent a nonparty participant's right to do so is limited by the hearing officer or hearing panel).
- D. The hearing officer shall regulate the course of the hearing in conformity with the Prehearing Order and shall not be required to follow formal court procedure. To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall afford to all parties and nonparty participants the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence, except as restricted by a limited grant of nonparty participation or by the Prehearing Order.
- E. The panel in its discretion may:
1. Direct the parties to produce information on specific issues deemed significant by the panel.
  2. Proceed on its own initiative to call witnesses to testify or admit evidence on its own motion.
- F. The parties shall have the opportunity to confront all witnesses. In the event that witnesses are unavailable or at the consent of the parties, depositions from witnesses or answers to written interrogatories may be presented or telephone depositions may be made in lieu of personal appearance at the hearing. The panel, in its discretion, may make such information part of the record. The hearing panel may take whatever other steps it deems reasonable and fair to all persons involved to deal with the unavailability of a witness.

- G. The panel, in its discretion, may adjourn the proceedings from time to time to allow the further development of the evidence.

#### **Section 28-54 Comprehensive Adjudication—Decision**

- A. Within 30 days after the conclusion of the hearing, or after the due date of all post-hearing briefs requested, if later, the panel shall make known its decision in writing. The decision shall be made by majority vote of all panel members, excluding the hearing officer, provided that in any adjudication initiated under Section 28-32, Subsection A, to remove or dismiss a faculty member pursuant to Chapter 25, Section 25-51 or 25-63 of the *Faculty Code*, the decision shall be made by a vote of five members of a seven-person panel or four members of a five-person panel or two members of a three-person panel. If at the conclusion of the hearing, there is an even number of panel members remaining due to loss of one or more panel members and the remaining panel members are evenly divided as to the decision on any issue or award of relief, the hearing officer shall cast a vote, but only to the extent necessary to break the deadlock.
- B. In the written decision, the panel shall set forth its findings with respect to each of the material grounds or issues raised and to the relief requested by the parties and state its conclusions regarding those issues. It shall also state specifically any action necessitated by the decision and identify the specific relief to be provided, including but not limited to suspension or dismissal, reprimand or warning, restoration or award of privileges, benefits or status, a cease and desist order, an order that a certain party receive counseling or other medical treatment, and including direction to the Provost or other appropriate party to take such steps as may be necessary to carry out the decision. The panel shall have the authority to recommend the award of compensation for economic relief to a party or nonparty participant of right where such party or nonparty participant of right has made a timely request in his or her pleadings for such relief and has proven the right to the relief during the course of the proceedings. In addition, the panel has authority to recommend an award of reasonable attorneys' fees to a prevailing faculty member if:
1. The administration was the unsuccessful party in the case and the panel determines that the position of the administration in the case was grossly unreasonable or maintained in bad faith, or
  2. The prevailing faculty member was obliged to hire legal counsel to represent him or her in a comprehensive adjudication by virtue of the administration's failure to waive representation by legal counsel as provided in Section 28-52, Subsection G.

RATIONALE: This section modifies the parties notified when a panel decision is reached to be consistent with other sections.

- C. Within 24 hours of the panel's written decision being put in final form, the panel shall deliver copies of the decision to the President, Provost, all parties, and all nonparty participants. Copies shall also be filed with the Chair of the Adjudication Panel, ~~the Chair of the Faculty Senate~~, and the Secretary of the Faculty, ~~and the University Ombud for the information of the Conciliation Board~~.

#### **Section 28-61 Review Procedures**

RATIONALE: Changes to this section clarify that any and all disputed actions by persons involved in conducting the adjudication may be appealed to the President and the timeline for doing so. Parties notified are amended to be consistent with other sections.

- A. The Chair of the Adjudication Panel shall have discretion to allow an appeal to the President of a decision dismissing one or more claims which do not dispose of the adjudication in its entirety. The Chair shall also have discretion to allow an appeal to the President of a decision on a motion to disqualify the appointment of a panel member and/or hearing officer. In the event that a motion to disqualify the Chair of the Adjudication Panel has been denied, a party shall have the right to have this decision reviewed immediately by the President. In the event that the President is a party to the adjudication, the foregoing appeals shall be heard by the Board of Regents.
- AB. A decision of a hearing officer in a brief adjudication shall be submitted to the Brief Adjudication Review Panel ("Review Panel"), which shall be a standing committee consisting of members of the

Adjudication Panel, appointed by the Chair. If the Review Panel takes no action and no party to the adjudication has filed a petition for review of the hearing officer's decision within 21 days of issuance of the decision, then the decision shall become the final decision of the University. If a party files a petition for review or the Review Panel elects to review the decision, all parties shall receive notice of such review. The Review Panel shall exercise all the decision making power that it would have had to decide and enter the decision had the Review Panel presided over the hearing, except to the extent that the issues subject to review are limited by a provision of law or by the Review Panel upon notice to all the parties. In reviewing findings of fact by the hearing officer, the Review Panel shall give due regard to the hearing officer's opportunity to observe the witnesses. The Review Panel shall afford each party an opportunity to present written argument and may afford each party an opportunity to present oral argument. The Review Panel shall complete its review within 20 days of the decision to review and shall enter a final order or remand the matter for further proceedings, with instructions to the hearing officer who entered the initial decision. The order shall include a description of any judicial or other review that may be available. Upon remanding a matter, the Review Panel shall order such temporary relief as is authorized and appropriate.

If no party to the adjudication has filed a petition for review of the Review Panel's final order within 21 days of the mailing of the order to the parties, the order shall become the final decision of the University. Only a final order of the Review Panel that reverses or amends the decision of the hearing officer may be appealed. Any such appeal shall proceed under the procedures of Subsection B of this section below.

- BC.** Subject to the provisions of Section 28-61 A., any dismissal for untimeliness or failure to state a proper basis for an adjudication or order of a hearing panel in a comprehensive adjudication, other than cases where the President is a party in the case, shall become a final decision of the University unless either party files an appeal to the President within 21 days of the date of mailing of the decision to the parties, or unless the President elects to review the decision by giving written notice of intent to review to the parties within 21 days of the date of delivery of the decision to the President. The presidential review shall include consideration of the written record. The President may request the parties to submit additional written arguments on particular issues and may request oral argument from the parties. To the extent that parties are asked to provide written documents, nonparty participants of right shall also have the opportunity to provide written documents and, at the discretion of the President, nonparty participants of right may be allowed to give oral arguments. No new evidence shall be considered by the President.

Within 60 days of commencement of the review, unless in the President's discretion more time is necessary to consider additional arguments, the President shall make one of the following determinations:

1. Affirm the panel's decision; or
2. Remand for further proceedings.

Any decision of the President to remand must be based on findings of the President that the decision of the panel was arbitrary or capricious; the procedures followed by the adjudication panel chair or the hearing panel or any other person involved with the adjudication procedures in reaching ~~its~~ their decisions, were materially and prejudicially unfair or not in accordance with the law or University rules or regulations; and/or the review in which he or she has engaged has revealed the importance of evidence which the panel did not adequately consider.

The panel then has 30 days to reconsider its decision and the reasons given by the President for remand, and to report back to the President its decision on remand. The President shall then affirm, reverse or amend the panel's decision on remand. Any decision of the President to reverse or amend must be based on findings that the panel's decision was:

1. Not supported by a preponderance of the evidence in the record, or
2. Was arbitrary or capricious, or
3. The procedures followed were materially and prejudicially unfair or in violation of law or University rules.

A decision by the President to affirm, reverse or amend the decision of the panel is a final decision of the University.

**CD.** Any order of a hearing panel in a case where the President is a party in the case shall become a final decision of the University unless either party files an appeal to the Board of Regents within 21 days of the date of mailing of the decision to the parties or unless the Board of Regents elects to review the decision by giving written notice of intent to review to the parties within 21 days of the date of delivery of the decision to the Board of Regents. The Board of Regents review shall include consideration of the written record. The Board of Regents may request the parties to submit additional written arguments on particular issues and may request oral argument from the parties. To the extent that parties are asked to provide written documents, nonparty participants of right shall also have the opportunity to provide written documents and, at the discretion of the President, non-party participants of right may be allowed to present oral arguments. No new evidence shall be considered by the Board of Regents.

Within 60 days of commencement of the review, unless in the Board's discretion more time is necessary to consider additional arguments, the Board shall make one of the following determinations:

1. Affirm the panel's decision;
2. Reverse or amend the panel's decision; or
3. Remand for further proceedings.

Any decision of the Board of Regents to reverse, amend, or remand must be based on findings of the Board that the decision of the panel was arbitrary or capricious; the procedures followed by the panel in reaching its decision were materially and prejudicially unfair or not in accordance with the law of University rules or regulations; and/or the review in which he or she has engaged has revealed the importance of evidence which the panel did not adequately consider. Any decision to reverse or amend without remand for further proceedings must include a finding that, and explanation as to why, further proceedings are not advisable. A decision by the Board to affirm, reverse or amend the decision of the panel, is a final decision of the University.

**DE.** If upon review a decision is remanded to the panel for further proceedings, the panel shall have 30 days within which to hold such further proceedings as are necessary to comply with the directions from the President (or the Board of Regents) and to respond to the President's (or Board of Regents') action with the results of its reconsideration of the case. Upon receipt of the panel's reconsidered decision, the President or Board of Regents shall have 30 days to make a final determination of the case. In the event that the President or Board of Regents decides to reverse or amend the reconsidered decision of the panel, the final decision shall state the basis of such decision, including specific findings as to why the decision of the panel was arbitrary or capricious, or why the procedures followed by the panel in reaching its decision were materially and prejudicially unfair or not in accordance with the law or University rules or regulations.

**EF.** Copies of all decisions, opinions, conclusions, instructions, and other written communications issued in the review process shall be sent to the Provost, all parties, nonparty participants, the Secretary of the Faculty, and the Chair of the Adjudication Panel, the Chair of the Faculty Senate, and the University Ombud for the information of the Conciliation Board, as soon as the decision becomes final.

**FG.** Any party may file a petition for reconsideration or clarification within ten days after the mailing of the following: a final decision of the President under Subsection B of this section, or a final decision of the Board under Subsection C of this section. Such petition shall be filed with the person or persons issuing the order or decision and the Secretary of the Faculty and shall be served on all parties. The filing of such petition suspends the time limitations for filing for further administrative review or for judicial review, if available. Such petition shall set forth the grounds upon which relief is requested. The petition shall be disposed of by the same person or persons issuing the order or decision, if reasonably available. The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the order or decision, or granting the petition and setting the matter for further hearing. The petition is deemed denied if within 20 days from the date the petition is filed the person or persons issuing the order or decision have not disposed of the petition or served the parties with notice specifying a date of disposition of the petition, and the Secretary of the Faculty has confirmed that the person or persons issuing the order or decision do not intend to act on the petition.

### **Section 28-71 Time Deadlines**

Unless otherwise specified in this chapter, requests for extensions of timelines shall be made to and decided by the Secretary of the Faculty. If a hearing officer, a hearing panel, the Chair of the Adjudication Panel, the Secretary of the Faculty or any reviewing body shall fail to meet any of the deadlines set in this chapter, such failure shall not affect the validity of the procedure, or any decision resulting from an adjudication held pursuant to this chapter, unless the delay was unreasonable and unduly prejudicial to the interests of any party or nonparty participant of right.

### **Section 28-81 Availability of the Record**

At the conclusion of the proceedings, the record of the hearing shall be maintained by the Secretary of the Faculty in accordance with the UW's Records Retention Schedule and shall be available for review to persons or organizations not party to the proceedings but having an interest therein, not inconsistent with the tenets of academic freedom and privacy rights of the parties or persons involved, subject to the written approval of both the President and the faculty member or members involved in the proceeding. Copies of any portion of the record previously transcribed shall be made available at actual duplication cost in accordance with these same provisions.

RATIONALE: The following section reflects established legal precedent regarding confidentiality of deliberative processes in quasi-judicial proceedings. Faculty members involved in these proceedings, especially as members of the Adjudication Panel, are often unsure of how protected they are should a matter go into litigation outside the university. This section reiterates that protection to the extent permitted by law. Some limits are described in *Lutheran Day Care v. Snohomish County.*, 119 Wash. 2d 91, 99-117, 829 P.2d 746, 750-58 (1992).

### **Section 28-82 Confidentiality and Immunity**

- A. The deliberations of a Hearing Panel shall be confidential, as shall deliberations of members of a special committee appointed under section 28-35.D., those of members of a Brief Adjudication Panel, and those of members of a Brief Adjudication Review Panel.
- B. Neither the Chair or Vice Chair of the Adjudication Panel, Hearing Officers, members of a Hearing Panel, and members of other panels described in the prior section, nor the Secretary of the Faculty, shall be subject to a petition alleging wrongdoing under this chapter based on his or her actions or inactions carried out pursuant to the duties prescribed by this chapter.

### **Section 28-91 Implementation**

Upon completion of the adjudicative proceedings, the President shall instruct the parties to do whatever is necessary to implement the decision and shall take all action necessary to insure that relief awarded is realized in fact. Copies of these communications shall be sent to all parties, nonparty participants, the hearing officer and hearing panel, and the Secretary of the Faculty.

### **Section 28-101 Report of the Adjudication Panel**

The Chair of the Adjudication Panel shall annually report to the faculty ~~in a Class C Bulletin~~ in September the number of brief and comprehensive adjudicative proceedings commenced or concluded during the prior academic year and the action that ensued. Names of the grievant or accused shall not be published.

RATIONALE: The following section has been revised and placed in the adjudication procedures manual. The original text was the result of non-binding Class C legislation.

~~Footnote: Policy Regarding Procedures in the Selection and Appointment of Student and Staff Members on the Adjudication Panel~~

- A. ~~The following rules for the selection of student members of the Adjudication Panel are based on drafts submitted by the ASUW and GPSS:~~

- ~~1. Six undergraduate students shall be selected by ASUW and six graduate or professional students shall be selected by GPSS to serve on the Adjudication Panel according to the ordinary appointment processes of those organizations.~~
- ~~2. Student members shall be matriculated, full-time students in good academic standing who intend to be in residence at the Seattle campus for two years.~~
- ~~3. Members of the ASUW Board of Control, ASUW Commission Directors, and officers of the GPSS are ineligible for appointment to the panel.~~
- ~~4. Members shall be appointed, or reappointed, for a term of one calendar year, to be effective the start of the following Autumn Quarter.~~
- ~~5. Every effort shall be made to appoint a diverse group of students to the panel, to maintain a balance with regard to gender, living group, academic area, race and ethnicity.~~
- ~~6. ASUW and GPSS shall submit the names of the persons selected to the Chair of the Faculty Senate as early as possible during Spring Quarter for consideration at the next meeting of the Senate Executive Committee and approval at the following meeting of the Faculty Senate.~~

~~B. The following rules for the selection of staff members of the Adjudication Panel are based on a draft submitted by the Director of Personnel Services:~~

- ~~1. Six members of the staff shall be selected by the Director of Personnel Services and the Professional Staff Advisory Council from persons nominated by each of the collective bargaining units and the Professional Staff Organization.~~
- ~~2. Staff members shall be full-time employees with at least three years' experience on staff at the University of Washington.~~
- ~~3. Officers and board members of organizations representing University employees are ineligible for appointment.~~
- ~~4. Staff members shall be appointed, or reappointed, for a term of three calendar years, beginning on September 16, except that of the initial six appointees, two shall be appointed for a period of one year; two shall be appointed for two years; and two shall be appointed for three years.~~
- ~~5. Every effort shall be made to appoint a diverse group of staff members to the panel, seeking to maintain a balance with regard to gender, age, employment category, race, and ethnicity.~~
- ~~6. The Director of Personnel Services shall submit the names of the persons selected to the Chair of the Faculty Senate as early as possible during Spring Quarter for consideration at the next meeting of the Senate Executive Committee and approval at the following meeting of the Faculty Senate.~~

*Approved by:*  
Senate Executive Committee  
October 5, 2015

*Approved by:*  
Faculty Senate  
October 22, 2105