

**University of Washington
Faculty Council on Student Affairs**

February 7th, 2017

1:30pm – 3:00pm

Gerberding 26

Meeting Synopsis:

1. Call to order
 2. Review of the minutes from January 3rd, 2017
 3. Student Reports
 4. Student Conduct Code
 5. Final Draft of WAC for review and vote
 6. Good of the order
 7. Adjourn
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1) Call to order

The meeting was called to order at 1:30 p.m.

2) Review of the minutes from January 3rd, 2017

The minutes from January 3rd, 2017 were approved as written.

3) Student Reports

Several student members were in Olympia due to deliberation of legislation affecting UW students.

There was some discussion of a new “bias incident response” tool/process at the UW. Barker explained though the tool and process have been developed, there are questions concerning how to most effectively disseminate information to faculty, staff, and students on their creation. It was noted the item would potentially return to the council in the next meeting.

4) Student Conduct Code (Exhibit 1) (Exhibit 2)

The council continued its consideration of Class B legislation altering the UW Student Conduct Code (SCC) within the Washington Administrative Code (WAC) (Exhibit 1). Laws reminded the council that the WAC portion of the revised SCC will be cemented first, with the local university policies to be ratified thereafter (via the Class B legislative process). He noted FCSA approval is the first step in the legislative process in order to make changes to the Student Conduct Code.

Jill Lee (Executive Director, Compliance Services) and Amanda Paye (Deputy Title IX/ADA Coordinator, Compliance Services) were present in the meeting to discuss revisions to the WAC portion of the SCC revisions since the time of the last FCSA meeting. They used a brief as part of their presentation (Exhibit 2).

Paye explained during discussion of the WAC in a recent Senate Executive Committee (SEC) meeting, “the role of the President in conduct proceedings was further discussed and there was agreement to

alter that role, with her concurrence. This change is consistent with faculty playing the role of reviewing officers. These revisions are reflected in WAC 478-120-0070 – Order from Administrative Review of Full Hearing and the removal of what was previously WAC 478-120-0068 - Authority of President of the University to Initiate Review” (Exhibit 2).

Lee reminded the council that as part of the changed SCC process, the university is anticipating creating training, web content, templates, and forms to operationalize the WAC and policies in a way that is transparent, understandable, and accessible to students.

There was some discussion of plagiarism as it is defined in the WAC (Exhibit 1, page 9). It was noted the language does not include information on “intention to plagiarize” versus accidental plagiarism (e.g. using “common knowledge” ideas without citation), and how the difference affects an allegation of plagiarism. Laws noted there have been no language changes at this time, but there is a plan to monitor the question after implementation.

Final draft of WAC / specific revisions since last FCSA review

The council read through and cross-referenced each specific revision to the WAC portion of the revised SCC using the brief provided by the guests, which lists changes made to the WAC chronologically (Exhibit 1) (Exhibit 2). Questions that arose during presentation of the revisions are as follows:

- Revision #2 (Exhibit 1, page 6) – It was noted the final phrase of the passage would be struck (beginning “with the”) before the document is forwarded to the SEC.
- Revision #4 (Exhibit 1, page 7) – It was clarified that “conduct hold” is used as a blanket term for varying categories of holds that appeared in the prior SCC WAC.
- Revision #6 (Exhibit 1, page 8) – A “Review Coordinator” has been added as a non-voting role on the review panel to aid with administrative needs/processes.
- Revisions #12 (Exhibit 1, page 19) – It was noted the intention was for a review panel to be made up of faculty and students, and a member suggested altering the language from “individuals” to “faculty and students” (first word, 478-120-0023). The council decided to alter the term from “individuals” to “faculty and staff.”
- Revision #13 (Exhibit 1, page 19) – It was noted the added section (Disqualification and Substitution of Presiding Officers and Reviewing Officers) would be made more clear via the local university policies.
- Revisions #14 (Exhibit 1, page 20) – There are ongoing questions concerning how conduct holds interact with Interim Protective Measures, and how they interact with other sanctions that may emerge.
- Revision #15 (Exhibit 1, page 21) – The revision designates email as the default communicative method for all university notices, and mail by posting as the primary alternative method.

Additional discussion before vote

Laws noted an outside group contacted by UW faculty (called FIRE) raised a handful of concerns over the SCC revisions. All of the concerns were noted as more pertinent to the local UW SCC policies than to the WAC. Some of the issues were largely based in semantics. There was some brief discussion of the nature of some of the concerns.

Zhou requested there be consideration of additional resources for international students who engage in the SCC process, including translation services. It was clarified any associated policy language would relate to the local university policies and not the WAC. A member mentioned that a targeted “international student orientation” is in development, which may potentially include information on the SCC.

After discussion subsided, the council approved forwarding the draft WAC language revising the SCC as Class B legislation to the Senate Executive Committee (SEC) by majority vote.

5) Good of the order

Nothing was stated for the good of the order.

6) Adjourn

Laws adjourned the meeting at 2:50 p.m.

Present: **Faculty:** Chris Laws (chair), Holly Barker, Doug Brock, Ann Culligan
Ex-officio reps: Aileen Trilles, Carolyn Martin, Kaitlyn Zhou
President’s designee: Lincoln Johnson
Guests: Amanda Paye, Jill Lee

Absent: **Faculty:** Mable Ezeonwu, Bruce Hevly, Jasmine Bryant, Christopher Campbell
Ex-officio reps: Tanya Kumar, Katherine Querna

Exhibits

Exhibit 1 – 17-2-7_Final_Draft_of_WAC_for_FCFA

Exhibit 2 – 2-9 FCFA cover memo

Date: January 26, 2017

To: Faculty Council on Student Affairs

From: Jill Lee, Executive Director, Compliance Services
Ellen Taylor, AVP, Student Life
Amanda Paye, Deputy Title IX/ADA Coordinator, Compliance Services

Re: Final Draft of Student Conduct Code WAC and 1st Draft of Policies

Thank you again for your efforts in working with us toward improvements in our student conduct process. Following for your review and approval is:

- Final draft of WAC for FCSA, which contains redlined changes that have been made to the previous draft WAC you previously reviewed.

In addition, both for context for the WAC and for your review:

- 1st drafts of the companion policies, Chapter 209 and 210 Student Policies and Governance for discussion, anticipating a vote on March 7, 2016 (content from the WAC is, again, replicated and shaded in gray in the policies).

Since your last review, we have provided the draft WAC to the Senate Executive Committee as an information item and, also, we have sought input from other process partners, including faculty and conduct officers.

As part of our review, we have also completed a further review of the requirements of the full adjudicative proceedings under Chapter 34.05 RCW – the Administrative Procedures Act and, also, the Chapter 10-08, WAC - Model Rules of Procedures. Because the current code contains provisions relating to full adjudicative proceedings and because the recent court decision has resulted in the decision to include those full proceedings in the revised WAC, efforts have been made to borrow current language when it is consistent with the new model and roles and/or to borrow language from the APA itself. This has resulted in a WAC that appears more complex on its face than we would have hoped, but one that both complies with the APA and also retains to the extent possible certain process improvements we identified that could be retained.

Overall Comments

- During the Senate Executive Committee meeting, the role of the President in conduct proceedings was further discussed and there was agreement to alter that role, with her concurrence. This change is consistent with faculty playing the role of reviewing officers. These revisions are reflected in WAC 478-120-0070 – Order from Administrative Review of Full Hearing and the removal of what was previously WAC 478-120-0068 - Authority of President of the University to Initiate Review.
- We are already anticipating creating training, web content, templates, and forms to “operationalize” the WAC and policies in a way that is transparent, understandable, and accessible to students.
- The Rules Coordination Office will do the final numbering, check internal number references, etc. (and ** has been used as a placeholder for internal references within the draft policies that remain

to be verified, depending on any future revisions).

Specific Revisions

1. WAC 478-120-001 – Statement of Authority revised to bring language more into alignment with the APA.
2. Given that the full adjudicative proceedings provisions have been added to the WAC, the internal citations to Research Misconduct need to be reviewed and reconciled with Executive Order No. 61.
3. As in current code and given the complexity of the full adjudicative proceedings under the APA, a definition of “attorney” was added as a “person permitted to practice law in Washington State.”
4. Per feedback from SEC and faculty process partners, a definition of “Conduct Holds” was added to clarify their purpose and we have revised WAC 478-120-0028 – Conduct Holds to further clarify that they are also used to monitor completion of disciplinary sanctions. A placeholder has been noted in the draft policies for further clarification.
5. Definition of “Respondent” was revised to acknowledge that some action may necessarily occur between the time a report is received and prior to charging a respondent.
6. The role of a “review coordinator” was added throughout to allow for the possibility of creating a role to provide support to the review panels in administrative reviews, much like a hearing examiner (a non-voting member).
7. WAC 478-120-0016 – Form of Adjudicative Proceeding revised to more closely align with APA language and, also, with the University’s WAC 478-108-110 – Adoption of Model Rules of Procedure.
8. An acknowledgement was added that the University may conduct “informal settlements” under the APA of conduct matters, which appears in current conduct code.
9. Clarification was added in WAC 478-120-0018 – Conversion to Full Adjudicative Proceeding that the conduct officer’s record from the brief adjudicative proceeding will become part of the record in the full hearing.
10. WAC 478-120-0019 – Full Adjudicative Proceeding was revised to more closely align with APA language.
11. WAC 478-120-0021 – Effective Date of Sanctions was revised to allow for possible post-dating and the actual effective date will be included in the final order.
12. WAC 478-120-0023 – Appointment of Reviewing Officers and WAC 4789-120-0024 – Selection of Review Panels are being offered to FCSA as proposed language in response to feedback about including some information in the WAC about this process. This was intended as “high level” language to allow for further discussion during development of policies (or this language can be moved to policies if FCSA would prefer).

13. WAC 478-120-0025 - Disqualification and Substitution of Presiding Officers and Reviewing Officers added from the APA and is consistent with the APA's requirements, including that the individual whose disqualification is requested determines whether to agree to disqualification. Other sections revised throughout to use the term "disqualification," which more closely aligns to APA.
14. WAC 478-120-0030 – Interim Protective Measures revised to remove reference to "supportive measures," which has caused confusion since there is no other reference to supportive measures in WAC (these are described in policy).
15. WAC 478-120-0032 – Service of Notices, Filings, and Orders and Time Limits revised to clarify when service by mail may occur and, also, to add language from APA relating to computing periods of time.
16. WAC 478-120-0056 – Subpoenas revised to clarify that the hearing officer may issue subpoenas and that the requesting party is responsible for serving the subpoena.
17. WAC 478-120-0069 – Communications with Reviewing Officers added to already-existing language regarding communications with the hearing officer.
18. WAC 478-120-0075 – Recordkeeping revised to include a reference to the recordkeeping provision for brief adjudicative proceedings under the APA.