

VII. STANDING COMMITTEES

A. Academic and Student Affairs Committee

Proposed Amendments to Washington Administrative Code 478-120, University of Washington Student Conduct CodeRECOMMENDED ACTION

It is the recommendation of the administration and the Academic and Student Affairs Committee that the Board of Regents adopt the attached amendments to the Washington Administrative Code 478-120, the University of Washington Student Conduct Code.

BACKGROUND:

In February 2006, President Emmert appointed a group of interested stakeholders to take a comprehensive look at concerns regarding the neighborhood located north of 45th Street, bordering the University campus. The President's action was taken in response to long-standing concerns by the University, neighbors, the City of Seattle, and students about a variety of issues including excessive noise, vandalism, crime and safety in this area. The group consisted of 23 representatives, including University faculty, administrators and staff, the Presidents of the Associated Students of the University of Washington and the Graduate and Professional Student Senate, the Presidents of the Interfraternity Council and the Panhellenic Association, representatives from the Seattle Mayor's office, the Seattle and University Police Departments and representatives of neighborhood associations. The group met in the 2006 winter and spring quarters. Its final recommendations included changes to the Student Conduct Code that would hold students accountable for certain behaviors in the north of 45th area. During the 2007 winter and spring quarters, a smaller subset of that committee met to determine potential modifications to the Code. The recommendations from this group were made in consultation with the leadership of both student governments, faculty, administration, and community leaders.

The proposed amendments have been approved by vote of the University of Washington's Faculty Senate, and endorsed by the North of 45th work group, the Associated Students of the University of Washington, the University of Washington's Graduate and Professional Student Senate, and fraternity and sorority leadership.

Amendments to the University of Washington's student conduct code better delineate the administration of the student conduct code at all three of the University of Washington campuses and modifies the code in the following ways:

- (1) A student may be subject to disciplinary proceedings under the student conduct code if the university is made aware that a court of competent

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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.

- (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 will not subject the student to disciplinary sanctions if the student voluntarily meets with a representative of the office of the vice-provost 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-provost for student life.

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Other housekeeping amendments bring the chapter up-to-date with its first substantive review since 1996. The proposed revisions to the Student Conduct Code would not substantially modify the manner in which disciplinary issues are managed. The authority of the deans to pursue allegations of academic misconduct remains unchanged, as does the responsibility of the Vice Provost for Student Life (formerly the Vice President for Student Affairs) to address other disciplinary matters. The Code also retains the emergency authority of the President of the University to suspend students immediately to protect the University community, pending timely reviews of such actions in accordance with the provisions of the Code.

A public hearing on the proposed revisions was held on October 30, 2007. Ms. Carol S. Niccolls, Hearing Officer, presided at the hearing and prepared a report to the President summarizing the proceedings and setting forth his findings and recommendations. A copy of the report is attached.

ATTACHMENTS:

1. Text of WAC 478-120, Student Conduct Code, with proposed changes
2. Hearing Officer's Report of November 5, 2007

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 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 student conduct and student discipline (~~(on the university campus)~~).

AMENDATORY SECTION (Amending WSR 07-03-069, filed 1/17/07, effective 2/17/07)

WAC 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.

(2) Admission to the university carries with it the presumption that students will conduct themselves as responsible members of the academic 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 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 other 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) Complying with the rules, regulations, procedures, policies, standards of conduct, and orders of the university and its schools, colleges, and departments.

(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 ~~((the))~~ university ~~((campus))~~ 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 ~~((the))~~ university ~~((campus))~~ premises;

(c) Conduct on ~~((the))~~ university ~~((campus))~~ 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 ~~((the))~~ university ~~((campus))~~ premises;

(e) Refusal to comply with any lawful order to leave ~~((the))~~ university ~~((campus))~~ premises or any portion thereof;

(f) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on ~~((the))~~ university ~~((campus))~~ 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) Unlawful possession, use, distribution, or manufacturer of alcohol or controlled substances (as defined in chapter 69.50 RCW) on ~~((the))~~ university ~~((campus))~~ premises or during university-sponsored activities;

(h) Intentionally inciting others to engage immediately in any unlawful activity, which incitement leads directly to such conduct on ~~((the))~~ university ~~((campus))~~ 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 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.

NEW SECTION

WAC 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-provost 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-provost 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.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 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;
- (b) Whether the alleged misconduct violates this code; and if so,
- (c) 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. Informal hearings shall use the procedures in 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 affairs~~) vice-provost 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-provost 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 director of the program in which a student is enrolled or the (~~vice-president for student affairs~~) 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 (~~and the vice-president for student affairs~~), the vice-provost 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.

(4) The initiating officer will begin a disciplinary proceeding by holding, or directing a member of his or her staff to hold, an informal hearing with the student charged with misconduct. Based on this informal disciplinary hearing, the initiating officer may choose to exonerate the student, 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 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.)

(5) 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.

(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, (~~in its~~) at their discretion, refer a matter directly to the faculty appeal board. The faculty appeal board performs distinct functions. In most cases, the faculty appeal board conducts an administrative review. In certain cases (defined in WAC 478-120-100(3)), the faculty appeal board conducts a formal

hearing.

(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.)

(8) The president or (~~his or her~~) 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. (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 affairs,~~) vice-provost 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. (~~If the student agrees,~~) 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 affairs,~~) vice-provost 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.

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

(11) In a case involving an alleged sexual offense, the accuser and the 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.

(12) Any final order resulting from a disciplinary proceeding shall become a part of the student's disciplinary record, unless the student is exonerated. (See WAC 478-120-145.)

(13) In accord with the Family Educational Rights and Privacy Act 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 initiating or presiding officer shall conduct the hearing in a room that will accommodate a reasonable number of observers. The 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.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 478-120-050 Jurisdiction. (1) The (~~vice-president for student affairs, or his or her delegate~~) vice-provost 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 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 directors 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 *University Handbook* (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 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 traffic regulations are under the general jurisdiction of the police department (~~of~~) at the University of Washington Seattle campus and under the jurisdiction of public

safety officers at the University of Washington Bothell and Tacoma campuses. (~~The citation hearing office has jurisdiction to hear and decide all cases involving alleged violations of traffic regulations.~~) (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.)

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 478-120-065 Informal disciplinary hearings. (1) A dean (~~or the vice-president for student affairs or his or her delegate~~), the vice-provost for student life, or, at the University of Washington Bothell and Tacoma campuses, the chancellors or the 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. This informal disciplinary hearing may be nothing more than a face-to-face meeting between the initiating officer or staff person and the student, and no special notice of the meeting is required. The purpose of this informal disciplinary hearing is to provide an opportunity for the student to respond to allegations of misconduct before disciplinary action is taken, and the student waives any rights to an informal hearing by his or her failure to attend.

(2) During an informal disciplinary hearing, the student must be provided with the following information:

(a) The alleged misconduct and the reasons for the university's belief that the student engaged in the misconduct;

(b) The specific section(s) of the student conduct code allegedly violated; and

(c) The possible sanctions that may be imposed.

(3) Based on the findings of an informal hearing, the initiating officer shall enter in writing one of the following orders:

(a) An order exonerating the student or dismissing the disciplinary proceeding if it appears that there has been no misconduct;

(b) An initial order imposing a disciplinary sanction;

(c) An order referring the matter to the appropriate university disciplinary committee; 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.

(4)(a) If the 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 student 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).

(b) If the order imposes a sanction but exceptional circumstances do not exist, then the student must be informed that he or she has twenty-one calendar days from the date of the 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 chooses not to appeal, the order becomes the final order.

(5) Within ten days of the conclusion of the hearing and any associated investigations, the student 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 student until the 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 student is a minor, the disciplinary sanctions imposed may be reported to the student's parents or legal guardian at the discretion of the initiating officer.

(6) 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) The official record of this informal hearing shall consist of all documents prepared or considered by the dean (~~(or the vice-president for student affairs)~~), the vice-provost for student life, or, at the University of Washington Bothell and Tacoma campuses, the chancellors, or the director of the program in which the student is enrolled, or their delegates, with regard to the dispute at hand.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 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 appeal to the appropriate body within twenty-one days 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.

(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 affairs))~~ vice-provost 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 informal hearings, the faculty appeal board shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal disciplinary hearing.

(4) 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.

(5) Only the president or the president's delegate may issue a final order of dismissal.

(6) Sanctions, if any, will be imposed only after an order becomes final, except for actions taken under WAC 478-120-140.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 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, three voting faculty members, and 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 ~~((the vice-president for student affairs))~~, at the University of Washington Bothell and Tacoma campuses, the director of the program in which a student is enrolled, the vice-provost 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 ~~((the))~~ each respective university disciplinary committee for a term of one year. ~~((The))~~ 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 ~~((the))~~ each university disciplinary committee shall be selected at random from 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 ~~((the))~~ each student body to serve one-year terms. Student members of the committees may not be reappointed.

(a) Panels of eligible students shall be selected randomly from the entire full-time student body to serve as committee members or alternates in the order in which they were selected, except that at the University of Washington Seattle 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) ~~((A))~~ 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) ~~((A))~~ Committee members may excuse ~~((himself or herself))~~ 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 ((the)) 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 quarter. Those terms shall expire on the first day of classes of the next 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.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 478-120-095 Hearings before the university disciplinary committees. The purpose of a hearing before ((the)) a university disciplinary committee is to provide all parties with an opportunity to present evidence and argument before disciplinary sanctions are imposed on a student. Based on the evidence presented at this hearing, the committee shall determine whether the 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 ((the)) a university disciplinary committee, the chair of the appropriate committee shall provide the student with written notice of the following information:

- (a) The time and place of the hearing;
- (b) The allegations of misconduct against the 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 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 (~~the~~) each committee shall adhere to the following procedures at all disciplinary hearings:

(a) The 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 student may be accompanied by an advisor of the student's choice.

(c) The student is entitled to hear all testimony and examine all evidence that is presented at the hearing. In response, the student may present evidence and witnesses on his or her own behalf and may ask questions of any other witnesses.

(d) No 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 initiating officer (~~the appropriate dean, (the vice-president for student affairs, or his or her delegate)~~ or at the University of Washington Bothell and Tacoma campuses, director of the program in which the student is enrolled, the vice-provost 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 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 (~~the~~) 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. Where exceptional circumstances exist, the student shall be notified of the right to request a formal hearing. Otherwise, the faculty appeal board shall 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 (~~the~~) 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 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).)

(6) If the committee determines that the 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 review the evidence presented at the hearing and the student's past record of conduct at the university.

(7) The chair of the appropriate university disciplinary committee shall provide the student 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 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 student is a minor, the written statement of the committee's decision may be reported to the 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 appeal, 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) 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 student's waiver of the right to a hearing before ~~((the))~~ a university disciplinary committee must be submitted in writing to the chair of the appropriate committee. The chair will submit the 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 a tape recording of the testimony and any other documents related to the hearing.

(12) A report of ~~((the))~~ 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 for student affairs))~~ 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.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 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 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 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 a 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 student 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 student with a written copy of the board's decision and a brief statement of the reasons for denying the petition within ninety days as specified in WAC 478-120-115(2).

(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 student in writing that he or she has twenty-one days from the date of the notice or twenty-five days from the date of mailing the notice to request a formal hearing. If the student fails to make such a request, 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 student within ninety days of the conclusion of the hearing. In a case involving an alleged sexual offense, both the accuser and the accused shall be informed of the board's decision. In a case where the student is a minor, the board's decision may be reported to the student's parents or legal guardian at the discretion of the 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 the student chooses not to appeal, 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.

(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).

(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.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 478-120-140 Emergency authority of the president and chancellors of the university. If a student's conduct represents a threat to the health, safety, or welfare of the university or any member of the university community, the president or the president's delegate, or the chancellors of the University of Washington Bothell and Tacoma campuses or their delegates, may suspend that student from participation in any or all university functions or privileges.

(1) In such an emergency situation, the president or (~~a delegate~~) chancellors, or their delegates, shall issue a written order to be served upon the student describing the terms of the emergency suspension and the reasons for imposing the suspension. The order shall be effective immediately.

(2) The president or delegate, or chancellors or their delegates, shall then refer the matter to the (~~vice-president for student affairs or his or her delegate~~) vice-provost for student life at the University of Washington Seattle campus or the appropriate campus official at the University of Washington Bothell or Tacoma campuses, whichever is appropriate, who shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 478-120-145 Recording and maintenance of records. (1) The (~~vice-president for student affairs~~) vice-provost 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 keep records of all disciplinary actions reported to (~~his or her office~~) their respective offices. Disciplinary records shall be kept separate from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action.

(2) The dean of a college or school at the University of Washington Seattle, or the director of the program in which the student is enrolled at the University of Washington Bothell and Tacoma campuses initiating disciplinary action shall report in writing to the office of the (~~vice-president for student affairs~~) vice-provost for student life, or the office of the chancellor for the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates, all cases in which disciplinary action is taken. The dean at the University of Washington Seattle shall also inform the registrar of any action affecting a student's official standing in the university. The office of the (~~vice-~~

~~president for student affairs~~) vice-provost 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.

(3) Disciplinary records of students not exonerated shall be maintained by the (~~vice-president for student affairs~~) vice-provost 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 disciplinary action has been taken and/or after the administrative purpose has been served.

(4) Disciplinary records of exonerated students shall not be maintained.

(5) Notwithstanding any other provision of this section, the (~~vice-president for student affairs~~) vice-provost for student life, or the chancellor at the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates, at (~~his or her~~) their discretion, upon written request by the student, may expunge the student's disciplinary record.

(6) Records 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 to chapter 478-140 WAC.

November 5, 2007

President Mark A. Emmert
Office of the President
University of Washington
Box 351230

Dear President Emmert:

Pursuant to your delegation, I served as the Hearing Officer to receive public comment on the University of Washington's proposed amendments to Chapter 478-120 WAC, "Student Conduct Code for the University of Washington." The hearing commenced at 12:00 p.m. on Tuesday, October 30, 2007, in Room 309 of the Husky Union Building at the University of Washington, Seattle campus. I am pleased to provide you a report of that hearing and the written comments received.

As required by the Administrative Procedure Act, the University filed the following notices with the State of Washington Code Reviser: a Preproposal Statement of Inquiry (published as WSR 07-16-077, in the *Washington State Register* on August 15, 2007) and a notice of Proposed Rule Making (published as WSR 07-19-075, in the *Washington State Register* on October 3, 2007). Campus notice that the hearing would be held was published in *University Week* and in *The Daily* on October 18, 2007. In addition, notice of the public hearing was included in the online events calendar for all three University of Washington campuses. The written comment period began August 15, 2007, and concluded October 30, 2007.

Public Comments

Written comments were received from the University Park Community Club addressing various issues of continued importance to the neighbors north of the University's Seattle campus. In general, the proposed new section WAC 478-120-025 concerning the off-campus conduct of University of Washington students was seen as a significant first step. There were, however, some points the Club would like better defined in the code, and they recommended that these points be reconsidered after the two-year trial period has elapsed with the code in effect. Specifically, the Club is concerned with the following:

- The area covered by the off-campus conduct code (including the way the boundary streets are listed). They would like to see the code expanded to cover an area surrounding the Seattle campus by a one-mile radius.
- The three-violation sanction process. They would like to see the process shortened.
- Possible retaliation by students to community neighbors which could conceivably result from the face-to-face mediation process that is recommended after a second violation of the code.
- The threshold of three violations needed per individual from a multiple-party student residence. They believe that approach would take an inordinate amount of time to address noise-related issues.

In addition to these written comments, one individual, who is a resident of the area affected by the proposed off-campus conduct code in WAC 478-120-025, provided oral testimony at the public hearing. The individual commented in favor of the proposed rules for off-campus student conduct. In addition, he sought answers to related questions not addressed by the code, concerning the need for continued collaboration between neighborhood residents, University students, University staff, and City of Seattle staff. All of these questions were answered to the individual's satisfaction by various University administrative staff present at the hearing.

Analysis and Recommendation

The proposed amendments to Chapter 478-120 WAC have been, in part, developed by the North of 45th Street collaborative working groups. They were reviewed by the Attorney General's Office, passed as Class B Legislation by the UW Faculty Senate, and endorsed by the ASUW, GPSS, and fraternity and sorority leadership. Moreover, with the caveat that the University continue to refine these rules as needed in the future regarding specific neighborhood resident concerns, the public comments favored adoption of the proposed amendments. Consequently, I recommend that the Board of Regents adopt the proposed amendments to Chapter 478-120 WAC, "Student Conduct Code for the University of Washington."

An audio tape of the hearing has been deposited with the Secretary of the Board of Regents.

Sincerely yours,

Carol S. Niccolls
Special Counsel to the President

cc: Ms. Rebecca Goodwin Deardorff
Mr. Eric S. Godfrey
Ms. Elizabeth A. Higgins
Mr. Aaron Hoard
Mr. Lincoln Johnson
Ms. Michele M. Sams
Dr. Phyllis M. Wise