



Clark College

Board of Trustees Regular Meeting

Wednesday, September 22, 2021 at 5:00pm

Via Zoom

Zoom Link: [Here](#)

Meeting ID: 878 7681 5565

Password: 413271

Call In (253) 215-8782

Board of Trustees Regular Meeting Packet

Wednesday, September 22, 2021 at 5:00pm via Zoom

- I. Call to Order/Agenda Review - Chair Bennett**
- II. Action Items/Consent Agenda – Chair Bennett**
 - A. August 25, 2021 Regular Board Meeting Minutes
 - B. Board of Trustees Policies & Procedures Manuel
- III. Constituent Reports**
 - A. Introduction of ASCC Student Leaders – Sarah Gruhler, Director of Student Life; Claudia Carrion, ASCC Vice President; Eric Hoth, ASCC Finance Director
 - B. AHE – Suzanne Southerland
 - C. WPEA – Chris Layfield
 - D. Foundation – Lisa Gibert
- IV. Staff Presentation – Rashida Willard, Vice President of Diversity, Equity & Inclusion;**
- V. Reports from Board Members – Chair Bennett**
- VI. President’s Report – President Edwards**
- VII. Public Comment – Chair Bennett**

Public comment will be limited to two minutes each.
- VIII. Public Hearing (Rule Making)**
 - A. WAC 132N-122-010, Withholding Services for Outstanding Debt (amend)
 - B. WAC 132N-125, Code of Student Conduct (repeal)
 - C. WAC 132N-126, Student Code of Conduct (adopt)
 - D. WAC 132-300, Grievance procedure—Discrimination (repeal)
- IX. Next Meeting**

The next regular meeting of the Board of Trustees is currently scheduled for Wednesday, October 27, 2021 at 5pm via Zoom.
- X. Executive Session – Chair Bennett**

An Executive Session may be held for any allowable topic under the Open Public Meetings Act.
- XI. Adjournment – Chair Bennett**

Clark College
Minutes of the Regular Meeting of the Board of Trustees
August 25, 2021
Via Zoom

In Attendance

Rekah Strong, Chair
Jeanne Bennett, Vice Chair
Cristhian Canseco Juarez, Trustee
Paul Speer, Trustee

Absent

None.

Administrators

Dr. Karin Edwards, President
Galina Burley, Executive Vice President of Operations
Dr. Michele Cruse, Interim Vice President of Student Services
Dr. Genevieve Howard, Interim Vice President of Instruction
Brad Avakian, Vice President of Human Resources
Rashida Willard, Vice President of Diversity, Equity and Inclusion
Valerie Moreno, Chief Information Officer

Others

Tsering Cornell, Assistant Attorney General
Jenny Shadley, WPEA Steward
Lisa Gibert, CEO, Clark College Foundation
Stephanie Weldy, Recorder

I. Call to Order/Agenda Review

Chair Strong called the meeting to order at 5:01pm.

II. Action Items

- A. #1 – June 9, 2021, Board Meeting Minutes
- B. #2 – July 28, 2021 Board of Trustees Retreat Minutes
- C. #3 – 2021-22 Calendar for Board of Trustees Executive Sessions, Work Sessions and Regular Meetings
- D. #4 – 2021-22 Appointment of Board Officers and Committee Assignments
- E. #5 – Board Equity Statement
- F. #6 – Use of Discretionary Funds

MOTION: Trustee Canseco Juarez made a motion to approve Agenda Items II A-F with a correction to the meeting minutes from the July 28, 2021 meeting. Trustee Speer requested to pull Agenda Item II E (Board Equity Statement) and seconded the motion of approval with Agenda Items II A, B, C, D, F, with a correction to the 2021-22 calendar for the Board of Trustees Executive Sessions, Work Session and Regular Meetings as well as revisiting the appointment of Board Officers and Committee Assignments once the open Trustee position has been filled. Agenda Items II A, B, C, D, F unanimously passed.

MOTION: Trustee Speer highlighted the Board Equity Statement and read it in its entirety. Trustee Speer made a motion to approve Agenda Item II E. Trustee Canseco Juarez seconded the motion. Agenda Items II E unanimously passed.

III. Constituent Reports

A. **ASCC**

There was no ASCC report. Next report will be during the September Board of Trustees meeting.

B. **AHE**

There was no AHE report. Next report will be during the September Board of Trustees meeting.

C. **WPEA**

Jenny Shadley gave an update on WPEA. Ms. Shadley highlighted that WPEA would like to address issues of hostile work environments at Clark. Ms. Shadley shared that several classified staff members have recently left the college because of the hostile environment in their departments. The WPEA is hopeful that we can work with the college to make Clark a desirable place for staff to work again. Ms. Shadley shared that the WPEA would like to address a concern about supervisory training and shared that several years ago, the College made it mandatory that supervisors complete a certain amount of supervisory specific training. Ms. Shadley shared that even before the COVID pandemic; these trainings went from few and often cancelled, to non-existent. Ms. Shadley shared that proper supervisory training is essential to a functioning organization, and will decrease unnecessary conflict. Ms. Shadley shared her appreciation for Dr. Edwards and Ms. Burley for participating in the WPEA open forum where over 100 classified staff attended.

The Trustees expressed interest in learning more about the supervisory training.

D. **Foundation**

CEO Gibert gave an update on the Foundation and highlighted coming back to campus and actively participating in the recovery management system and reported that the Foundation is on the way to fully vaccinated organization. CEO Gibert shared that the Foundation Offices will remain closed in the fall and personnel are available by appointment and on site. CEO Gibert shared that due to the Delta variant, The Foundation Board will continue to meet via Zoom and the Student Awards Ceremony will be rescheduled for another date. GEO Gibert shared that the Memo of Understanding will be going to the Executive Committee for their feedback on September 2 and expressed appreciation for the work that has been done on this document.

IV. Reports from Board Members

Trustee Strong shared that she participated in the Board Retreat and that there was an Equity Training led by Rashida Willard and Melissa Williams. Chair Strong shared that there are some action

items that as a Board they will be moving forward with and will share more at the September Board of Trustees meeting. Trustee Strong shared her appreciation for President Edwards and the phenomenal job she has done at Clark in a brief period of time.

Trustee Canseco Juarez shared that he participated in Commencement and that it was an amazing opportunity to celebrate in person with other students and Clark employees. Trustee Canseco Juarez shared that he participated in the Board Retreat and expressed appreciation for the Allyship Equity Training led by Rashida Willard and Melissa Williams. Trustee Canseco Juarez shared that Trustee Tuesday's have been helpful in learning more about the roles of the Trustees and encouraging/promoting racial equity within the college environment.

Trustee Speer shared an update regarding policy (Presidential Selection Process) and provided a draft with recommendations to the President and Executive Cabinet. Trustee Speer shared that the Board Handbook has some new proposed items and requested that the other Trustees review and provide feedback to Ms. Weldy. Trustee Speer shared that the recommended changes to the Board Handbook would be on the September Board of Trustees Agenda for approval. Trustee Speer shared that the creation of a Trustee and Requirement handbook, with an emphasis on equity and best practices have been presented to the Governor's Office and SBTC Board, with an intent to introduce it at the state conference. Trustee Speer shared his appreciation for Trustee Canseco Juarez for his work regarding affinity work and approval for a Trustees Affinity Group for People of Color and his authorship in that request. Trustee Speer shared that the next Trustee Tuesday is September 13. Trustee Speer shared his appreciation for Clark events being highlighted on social media platforms. Trustee Speer shared that the Board Retreat was helpful and appreciated Dr. Andrea Cook facilitating a discussion in conjunction with Executive Cabinet as well as the Allyship Equity Training led by Rashida Willard and Melissa Williams. Trustee Speer shared that he is looking forward to planning ahead and the strategic planning process.

Chair Bennett shared that she helped with the annual presidential evaluation and reaffirmed Trustee Strong's sentiments regarding gratitude for President Edwards and her work at the College. Chair Bennett shared that the Board Retreat was helpful and enjoyable bringing everyone in together for the day to share ideas. Trustee Bennett shared that she has been working on the Board Budget Committee and expressed her appreciation for President Edwards' leadership in this area as well as Sabra Sand.

V. President's Report – President Edwards

A. President's Updates

President Edwards shared her appreciation for Trustee Strong and her service and support on the Board. President Edwards shared that during the work session, there was discussion regarding the return to campus plan and invited Dr. Genevieve Howard and Dr. Michele Cruse to present.

Dr. Howard and Dr. Cruse presented a PowerPoint that highlighted the plan, implementation of the plan and a collaborative approach to increase student success, improve campus climate, obtain financial stability, expand, and deepen community engagement.

President Edwards shared that there is a pilot program in which Washington State Achievement Council identified students who receive SNAP Benefits and notified them that they will be

immediately accepted into Clark College and their tuition will be paid for; the purpose of the pilot program is to help close disparities.

President Edwards followed up from the Board Work Session regarding the fund balance reserves. President Edwards recommended that that Board hold the funds (\$8,199,233) due to an anticipated short fall within the next three to four years.

MOTION: Trustee Speer made a motion to approve the recommendation to the Board to maintain the total available cash at the end of July 1, 2021 of \$8,199,233 as tool to use in future years where our current projection show as having short falls. Trustee Canseco Juarez seconded the motion. The motion to approve the recommendation to the Board unanimously passed.

VI. Public Comment

The following people gave public comment: Courtney Braddock and an anonymous comment was read by Ms. Weldy.

VII. Next Meeting

The next regular meeting of the Board of Trustees is currently scheduled for Wednesday, September 22, 2021, at 5:00pm via Zoom.

VIII. Executive Session

The Board went into executive session pursuant to RCW 42.30.110(1)(g) for tenure candidate review. The Board went into executive session at 6:32pm and announced it was expected to last until 6:52pm. At 6:52pm, an announcement was made that the executive session would be extended to 7:02pm. At 7:02pm an announcement was made that executive session would be extended to 7:21pm. Executive Session under RCW 423.30.110(1) ended at 7:21pm. No final action was taken by the Board during executive session. The regular meeting reconvened at 7:21pm.

Chair Bennett shared the College has not made a practice of granting early tenure and unable to do so until the Board gathers and considers additional information about the impacts of entertaining such a practice. The Board shared their appreciation of the candidate's hard work and that if additional information is needed from the candidate or the tenure review committee; the Board will be in touch. Chair Bennett shared that in the meantime, the Board will continue to follow the regular tenure process and update all tenure review committees when they have decided.

IX. President's Evaluation/Contract Extension

The Board of Trustees shared they are supportive of President Edwards' work, resiliency, and her leadership at Clark. The Board shared that President Edwards' contract has been extended to 2024 and her salary is \$247,200 with a one-time Board contribution of \$8k for her retirement.

X. Adjournment

There being no further business, the meeting adjourned at 7:31pm.

Jeanne Bennett, Chair

Stephanie Weldy, Recorder
August 25, 2021



Clark College

Board of Trustees

Policies & Procedures Manual

Approved (month) 2021

BOARD POLICIES & PROCEDURES

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Clark College
BOARD POLICIES AND PROCEDURES

100.000 BOARD OF TRUSTEES

100.A00 LEGAL STATUS OF THE BOARD

100.A10 LEGAL STATUS AND AUTHORITY OF THE BOARD

By authority contained in the Community and Technical College Act of 1991 and as appointed by the Governor of the State of Washington, the Clark College Board of Trustees shall serve the educational needs of Community College District 14 and shall be responsible for developing the policies of Community College District 14 under which Clark College operates. The Board of Trustees derives its authority from RCW 28B.50.140, as now written or later amended. The Board will delegate certain responsibilities to the president or designee. Individual members of the Board have power and authority only when acting formally as members of the Board in session at regular or special meetings.

100.A20 OFFICIAL NAME OF DISTRICT

The official name of the District, established under and by virtue of the laws of the State of Washington, shall be "Community College District 14". Within the Board Policies and Administrative Procedures Manual, the terms "District" and "College" both refer to Clark College or Community College District 14.

100.A30 OFFICIAL COLLEGE TITLE

The official name of the College shall be "Clark College". The College name shall be used in all instances except where the statutory name of the District is legally required, e.g., in publication of legal notices and in the execution of contracts and other legal documents.

100.A40 OFFICIAL BOARD TITLE

The Board of Trustees shall be known as the "Board of Trustees of Clark College" (herein referred to as the "Board").

100.A50 DISTRICT SEAL

The District shall have a seal, the form and design of which shall be adopted by the Board and the custody of which shall be with the secretary of the Board. The seal shall have inscribed upon it the name of the College as shown:



100.A60 PHYSICAL BOUNDARIES OF THE DISTRICT

The fourteenth district shall encompass the counties of Clark, Skamania, and that portion of Klickitat County not included in the sixteenth district as defined by RCW 28B.50.040.

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100.A70 COLLEGE MISSION STATEMENT

Clark College, in service to the community, guides individuals to achieve their educational and professional goals.

100.B00 GOVERNANCE

100.B10 COMPOSITION OF THE BOARD

The Board consists of five members appointed by the Washington State Governor and confirmed by the Washington State Senate. (RCW 28B.50.100)

Every trustee shall be a resident and qualified elector of the District. No trustee may be an employee of the community college system, a member of the board of directors of any school district, or a member of the governing board of any public or private educational institution.

The Board shall organize itself by electing a chair from its members. The Board shall adopt a seal and may adopt such resolutions, rules and regulations as it deems necessary for its own government. The president of the College shall serve as, or may designate another person to serve as, the secretary of the Board, who shall not be deemed to be a member of the Board. (RCW 28B.50.100)

100.B15 STUDENT BOARD MEMBERS

Boards of trustees for each college district, by majority vote, may establish a sixth trustee that shall be filled by a student. The governor shall select each student member from a list of candidates, of at least three and not more than five, submitted by the associated student governments or their equivalent of the college district. The student member shall hold his or her office for a term of one year, beginning July 1st and ending June 30th, or until the student member's successor is appointed and qualified, whichever is later. The student member shall be a full-time student in good standing at a college within the college district at the time of appointment and throughout the student's term. If the student member fails to be enrolled at the college full-time or forfeits his or her academic standing, the student member is disqualified and a new student member must be appointed.

A student appointed under this section shall excuse themselves from participation or voting on matters relating to the hiring, discipline, or tenure of faculty members and personnel or any other matters pertaining to collective bargaining agreements. (RCW 28B.50.102)

100.B20 VACANCIES

Any vacancy occurring in the Board shall be filled by appointment by the governor of the State of Washington. If the vacancy occurs prior to the expiration of any term, the new Board member shall be appointed only for the remainder of the term. When the vacancy occurs at the end of a term, the new Board member shall be appointed for a term of five years. (RCW 28B.50.100)

100.B21 ONBOARDING OF NEW BOARD MEMBERS

Onboarding of new Board members is a responsibility of the chairman of the Board who may call upon other members of the Board or staff to assist in this ongoing process.

Onboarding will begin immediately after the appointment of a new member and will provide all needed information as to the basic purpose of the Board, its sources of authority, its responsibilities and duties, and the policies and procedures adopted and followed by this Board for the conduct of its meetings and performance of its duties. Onboarding shall include relevant District content, Washington State Association of College Trustees (WACT) onboarding material, relevant Washington State Attorney General's material, and Association of Community College Trustees (ACCT) new trustee orientation material.

100.B22 COMMITTEES OF THE BOARD

For the enhancement of its work, the Board may create standing or ad-hoc Board Committees as necessary to research and report on specific issues to the Board. These committees do not speak on behalf of the Board except when the Board delegates such a responsibility to that committee.

100.B25 EQUITY STATEMENT

The Board of Trustees of Clark College, in united solidarity, explicitly affirms the college's identity as an anti-racist institution. We commit to the development and implementation of strategies and best practices that dismantle systemic racism and other forms of systemic oppression within all aspects of our college. As the college's leading governing body, policy-setting group, and fiduciary agents, we commit to championing diversity, equity, and inclusion in all aspects of our work, and guiding and supporting the college to achieve equitable outcomes. We also commit to intentional actions, continued learning, and acknowledgement that there will be missteps during our journey. Nonetheless, we will persist and accept that responsibility toward meaningful cultural change and progress on diversity, equity, inclusion, and anti-racism rests on the shoulders of the college's top leaders and the Board of Trustees.

This work is essential to Clark College's ability to provide all members of our community with access to quality education and services, promoting economic and community development, and preparing a trained and readied workforce.

100.B30 STATEMENT OF ETHICS

Washington Ethics Law:

The Washington Ethics Law, RCW 42.52, applies to all state employees. It governs the actions and working relationships of members of the Board and of all employees at Clark College. Board members and employees shall perform in accordance with this law in their dealings with fellow employees, suppliers, government representatives, the media, and other individuals with whom they have professional relationships that are associated with their responsibilities at Clark College. The Board adheres to Chapter 42.52 RCW, "Ethics in Public Service," as implemented per WAC 292.

Conflicts of Interest:

Each member of the Board and all employees of Clark College are expected to place the interests of the College above their self-interests. Board members and employees are expected to resolve issues in favor of good, ethical judgment, and in keeping with the basic

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principle that their position of trust may not be used for personal gain or private advantage.

In resolving issues regarding conflicts of interest, the following statements from state law shall be considered:

- Board members and College employees may not have a financial interest or engage in any activity that is in conflict with the proper discharge of their official duties.
- Board members and College employees may not use their official position to secure special privileges for themselves or any other person.
- Board members may not receive compensation from any person, except the State of Washington, for performing their official duties.

100.B35 ETHICAL VALUES AND PRINCIPLES IN PUBLIC SERVICE

To promote individual development and the common good, trustees will strive to promote basic values of conduct. The following values represent a shared ideal that permeates the institution and constitute a primary responsibility for trustees to uphold and honor: equity, honesty, integrity, fairness, respect, good citizenship, excellence, accountability, and protection of public trust.

100.B40 TENETS OF GOVERNING

On behalf of all the members of Clark College's service area, the Board will strategically provide stewardship and leadership. The continual focus will be on the needs of the entire community as reflected in the Mission and the improvement of the College's capability, while demonstrating the highest level of integrity.

The Board will:

- lead with racial equity,
- emphasize outward vision rather than an internal preoccupation,
- consistently encourage a diversity of perspectives,
- provide strategic leadership more than administrative detail,
- maintain clear distinction between board and staff roles,
- forward collective rather than individual decisions,
- focus on the future rather than the past or present, and
- remain proactive rather than reactive.

The Board functions as the authorized link between the College and all of the members of the College's service district. The Board's responsibility to the community is to ensure quality, relevant education while providing responsible stewardship of public resources.

The Board will remain vigilant to its role as "steward" for the College by consistently seeking ways to improve its capability and functioning.

Board members will adhere to a code of conduct which includes:

- leading with racial equity,
- speaking with one voice,

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- demonstrating the role of “steward” for the College,
- supporting equitable decision making processes,
- committing to the resolution of conflict in productive ways,
- committing to meeting attendance and preparedness,
- respecting the role of the Chairperson as the communication link with the College president,
- committing to ongoing professional training and development, and
- maintaining a focus on strategic, forward-thinking leadership.

100.B50 TRAINING AND DEVELOPMENT

Strong Board members are curious, engaged, and practice lifelong learning. Board members will demonstrate a commitment to their ongoing professional development by participation in board agreed to group training and personal areas of interest such as:

- board committees,
- required higher ed works courses,
- public events offered by the college,
- equity workshops, reading, and community engagement,
- events and workshops offered by the Washington Association of College Trustees,
- events and workshops offered by the Association of Community College Trustees, and
- other relevant opportunities to grow in the knowledge, skills, and ability to be an effective Trustee.

100.B70 BOARD DUTIES AND RESPONSIBILITIES

The Board, responsible to all the members of Community College District 14 and sensitive to their hopes, ambitions, and needs, shall have the legislative responsibility of formulating broad public policy for community college education in the District. The formulation and adoption of written policies shall constitute the basic method by which the Board exercises its leadership in the operation of the District.

Without limiting the powers granted to the Board by the state, and subject to lawful and applicable rules and regulations, Board responsibilities are as follows:

1. Select and appoint a president, and set salary, terms and conditions of employment;
2. Evaluate the president annually;
3. Determine the broad general policies that guide the operation of the College, and review them annually;
4. Delegate responsibility for decisions concerning appointments, retention, or dismissal of faculty, administrators, and classified personnel; provided however, the Board does not delegate its appointing authority on issues relating to the granting or denial of tenure, the dismissal of a tenured faculty member, or the dismissal of a probationer during the term of their contract;
5. Function as the legislative and policy making body, leaving the executive functions to the president;

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6. Utilize the services of the attorney general of the State of Washington and cooperate fully with officers of the state attorney general;
7. Authorize lawsuits and recommend legal defense;
8. Approve the College Facilities Master Plan;
9. Review and approve an annual budget to finance the operation of the District in accordance with the statutes of Washington and lawful and applicable regulations;
10. Delegate to the president the authority to approve the expenditures of all funds and let all contracts;
11. Authorize borrowing money and the issuance and sale of revenue bonds;
12. Name College facilities, landmarks, and other outdoor features, programs, institutes or centers;
13. Recognize the right of the duly elected employee organizations to negotiate employee rights and benefits within the tenets of the respective Collective Bargaining Acts;
14. Consider communications and requests from community members and organizations of the District on matters of District policy at regularly scheduled board meetings;
15. Adopt and periodically review a statement of philosophy, mission, and goals which clarifies basic educational beliefs and educational responsibilities of the District;
16. Establish a yearly planning cycle that links the Board's agenda with the College's Strategic Plan;
17. Annually review and evaluate progress towards the goals in the College's Strategic Plan through a variety of measures;
18. Appraise the efficiency and effectiveness of District operations and the educational programs and services of the College;
19. Refer all matters concerning the District directly to the president for study and recommendation before such matters are considered by the Board, except where immediate action is deemed necessary by the Board;
20. Inform the public concerning the progress and needs of the District, the educational programs, and the financial status of the District;
21. Conduct an annual self-evaluation and determine a corrective course of action as necessary; and
22. Act in the best interest of the College pursuant to various authorizations granted in the Community and Technical College Act of 1991 or in the rules and regulations of the State Board for Community and Technical Colleges.

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100.C00 OFFICERS OF THE BOARD

100.C10 TITLES

The officers of the Board shall be a chair and a vice-chair who shall be members of the Board. The president of Clark College, or designee, shall serve as secretary of the Board as specified by state law.

100.C20 MANNER OF ELECTION AND TERM OF OFFICE

At the last regular meeting of the Board each fiscal year (June), the Board shall elect, from its membership, a chair, vice-chair, and any other committee members as deemed necessary, to serve for the ensuing year.

The chair and vice-chair of the Board shall be elected to such offices by the Board for a term of one year and assume office on July 1st, and shall hold office until their respective successors shall be elected and assume the office.

100.C30 CHAIR OF THE BOARD

Responsibilities and duties shall include, but are not limited to the following:

1. Preside at all meetings when present and decide on questions of order;
2. Appoint members of the Board to serve on special committees as approved by the Board;
3. Execute all contracts approved by the Board and other official documents legally requiring the signature of the chair of the Board, such as resolutions, general obligations, and revenue bonds;
4. Call special meetings of the Board as required;
5. Represent, when possible, the Board at meetings of trustee organizations to which the District belongs; and
6. Perform any other duty formally assigned by the Board, or by state statute.

100.C40 VICE-CHAIR OF THE BOARD

Responsibilities and duties shall include, but are not limited to the following:

1. Perform all duties of the chair of the Board in the absence or disability of the chair; and
2. Discharge such other functions as the chair of the Board may request from time to time.

100.C50 SECRETARY OF THE BOARD

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Responsibilities and duties of the Secretary or designee shall include, but are not limited to the following:

1. Provide for the written notification to all concerned of regular and special meetings of the Board;
2. Transmit the Board agenda and a copy of the minutes of the previous meeting to the Board and such other persons as the Board may designate and post at the District offices prior to an ensuing meeting;
3. Record, prepare, sign, and distribute to all members of the Board the minutes of all regular and special meetings of the Board;
4. Act as custodian of the official seal of the District; affix it to official documents and attest the same by signature;
5. Prepare and maintain for the Board an indexed compilation of all resolutions, a copy of the policies of the Board of Clark College, and all amendments thereto;
6. Advise the Board of any communications which require consideration and action by the Board; and
7. Give such public notices of Board action as may be required by statutes, or resolutions of the Board.

100.C61 DELEGATION TO THE PRESIDENT

All Board authority delegated to staff is delegated through the President. All authority and accountability of staff is considered to be the authority and accountability of the President. The Board delegates appointing authority for classified staff to the person now holding or subsequently appointed to the positions of President, and the chief Human Resources officer. The Board delegates appointing authority for all other staff and faculty to the President or the President's designee.

1. The President is authorized to develop and implement all administrative policies, decisions, actions, practices, and activities. The President will base decisions on the annual goals of the College and responsibilities defined in the president's job description.
2. Only decisions of the Board acting as a body are binding upon the President.
 - a. Decisions or instructions of individual Board members, officers, or committees are not binding on the President except in rare instances when the Board has specifically authorized such exercise of authority.
 - b. If Board members or Board committees request information or assistance without Board authorization, the President can refuse such requests that, in the President's judgment, require a material amount of staff time or funds or are disruptive.

3. The President shall apply to the Board for a waiver of a Board Policy if the President deems a waiver is in the best interest of the College.

100.C65 PRESIDENT

The president of the District shall be the executive officer through which the Board implements its policies. The president may delegate to subordinates of the District such of their powers as they may be authorized to delegate and deem desirable to be exercised under the president's supervision and direction. Responsibilities and duties in addition to those outlined in the President's job description and presidential contract include but are not limited to the following:

1. Inform the Board of all significant actions taken under authority granted by it and respond in a timely manner to Board requests for information;
2. Perform all executive functions for the Board, such as:
 - a. Prepare the agenda for Board meetings.
 - b. Conduct official correspondence of the Board.
 - c. Issue its orders.
 - d. Prepare all documents as directed by the Board and execute all documents pursuant to authority granted to the president by the Board.
 - e. Provide for the custody of all records, proceedings, and documents of the Board and assume responsibility for making them available for public inspection.
3. Advise the Board in all areas of policy and make recommendations on all matters that affect the District before action is taken by the Board;
4. Determine qualifications for, appoint, manage, supervise, and discharge all employees of the College, including fixing their salaries and the terms and conditions of individual contracts as applicable, provided that the procedures established in the tenure laws of the State of Washington, when appropriate, and/or the statutes, rules and regulations of the Washington Personnel Resources Board shall be followed;
5. Appoint, manage, supervise, and discharge administrative personnel, including fixing their salaries and the terms and conditions of their individual contracts;
6. Prepare and submit to the Board an annual budget and administer the Board approved budget;
7. Formulate all reports as may be required by the Board and by local, state, and national agencies;
8. Formulate and promulgate rules, regulations and procedures to implement Board policies;

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BOARD POLICIES AND PROCEDURES

9. Represent the District to the community by interpreting the policies to the public, the press, and community organizations;
10. Approve the expenditure of all budgeted funds and execute all contracts consistent with the budget adopted by the Board and in compliance with Board rules and all applicable state and federal laws and regulations;
11. Prepare and submit to the Board an Annual Operational Plan Final Report as part of the Strategic Plan;
12. Act as the chief administrator and educational leader of the District, responsible for the organizational structure of the District and for all executive and administrative duties in connection with the operation of the District;
13. Propose long-range direction and scope of District programs, recommending to the Board from time to time such changes in programs and services as they deem desirable to fulfill the philosophy and goals of the District;
14. Establish District objectives consistent with Board philosophy and goals; determine the need for and qualifications of all positions within the District, and provide for evaluation of all personnel and programs;
15. Recommend to the Board site location and site utilization and direct the development of the College building program;
16. Participate in community college programs at the local, state and national level by representing the District at meetings of organizations to which the District belongs and others as approved by the Board;
17. Review legislation affecting the District and report the substance thereof to the Board;
18. Attend Board meetings;
19. Designate an administrative officer of the District to serve as acting president in the president's place and stead during absences. Absences over three weeks duration are subject to Board approval; and
20. Perform such other duties as may be assigned or granted by the Board or required by law.

100.E00 MEETINGS OF THE BOARD

100.E05 REGULAR MEETINGS

The Board shall hold regular monthly meetings according to a schedule including place, time and date filed with the Washington State Register, pursuant to RCW

Clark College
BOARD POLICIES AND PROCEDURES

42.30.075. All meetings of the board, regular and special, shall be hold in conformance with the Open Public Meetings Act, Chapter 42.30 RCW.

A regular meeting may be canceled by action of the Board or the Board chair. A special meeting may, however, be set for another date and time. When a special meeting is scheduled, notice thereof will be given in conformance with the notice requirements for special meetings contained in RCW 42.30.080.

Board meetings shall be held in Gaiser Hall, 1933 Fort Vancouver Way, Vancouver, WA, or at such other places as the Board shall determine, or by legally allowed electronic means.

DRAFT

100.E10 SPECIAL MEETINGS

Special meetings may be called by the chair, or by request of three Board members, and they shall be conducted in conformance with Washington State law. Only those items published on the agenda shall be considered at a special meeting. (RCW 42.30.080)

100.E15 EXECUTIVE SESSION

The Board may hold an executive session during a regular or special meeting. Executive sessions will be held in conformance with Washington State law. (RCW 42.30.110)

100.E20 OPEN MEETINGS

All regular and special Board meetings are open to the public; however, the chair may call an executive session when permitted by Washington State law at which a member of the general public shall not be present unless invited. (RCW 42.30.030)

Public votes and public records shall be open to the public for inspection and duplication.

100.E25 APPEARANCES BEFORE THE BOARD

Each regular meeting of the Board shall provide members of the public an opportunity to address the Board on any item of business. The Board encourages groups to designate a spokesperson to address the Board on their behalf.

The chair of the Board reserves the right to determine time limits on statements and presentations. The intent of the Board shall be to provide equal time for both pro and con presentations. The chair also maintains the right to regulate the subject matter of that which may be presented or discussed at the open meeting including, but not limited to, matters which are the subject of current or pending grievances or adjudicative or disciplinary proceedings. Matters for consideration, discussion, and/or debate will be limited to the extent allowed by the Open Public Meetings Act, Chapter 42.30 RCW.

The president of the College shall be given an opportunity, whenever possible, to examine and evaluate each matter of business and to recommend a course of action prior to a decision by the Board.

100.E28 INTERRUPTIONS

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals (physically or electronically) who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room (or electronic equivalent) cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

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Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting. (RCW 42.30.050)

100.E30 QUORUM

Three trustees shall constitute a quorum for the transaction of business at regular and special meetings. A number fewer than a quorum may call the roll, record the names of absentees, and adjourn to meet at a specified future time. (RCW 28B.50.130)

100.E35 REQUIRED VOTE

An affirmative vote of at least the majority of trustees (for approval) shall be required for adoption of any matter upon which the Board votes. (RCW 28B.50.130)

The chair of the Board, or other presiding officer, shall have a vote upon all questions and may engage in general discussion.

A member abstaining from voting on any matter shall voice such abstention for recording in the minutes.

A student appointed to the Board shall excuse themselves from participation or voting on matters relating to the hiring, discipline, or tenure of faculty members and personnel or any other matters pertaining to collective bargaining agreements. (RCW 28B.50.102)

100.E40 AGENDA

The agenda shall be prepared by the president in consultation with the Chair of the Board and its contents presented by the president for Board consideration at each meeting.

100.E45 BOARD MATERIALS AND INFORMATION

Information and materials pertinent to the agenda of all regular meetings of the Board shall be sent to the trustees prior to each meeting. The chair or president may present a matter of urgent business received too late for inclusion on the agenda if, in their judgment, the matter is of an emergency nature.

All materials to be considered by the Board must be submitted in sufficient quantities to provide each member of the Board and the secretary with copies.

100.E50 MINUTES OF MEETING

Minutes of regular and special meetings are public records. Minutes are open to inspection and made available for viewing in the Cannell Library, kept on file in the Office of the President, or maintained on the college's web site as a permanent official record of all transactions of the Board.

The minutes shall record the name of the trustee making a motion, the name of the trustee seconding it, and the vote, attributing each "yea" and "nay" vote or abstention to the individual trustee. The voting shall be by voice, except that a roll call may be

Clark College
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required for resolutions and all other questions whenever requested by a trustee. A trustee may also have the reasons for their vote recorded in the minutes if they so request at the time of voting.

A permanent record of all District Board resolutions shall be published on the Clark College web site.

100.F00 MISCELLANEOUS POLICIES OF THE BOARD

100.F10 PRESENTATION AND ADOPTION OF POLICY

Every effort shall be made to present, in writing, recommendations for changes in policy at least one meeting in advance of the meeting at which adoption is requested. The adoption of policy requires the affirmative vote of at least three trustees.

100.F20 PARLIAMENTARY AUTHORITY

Except as they may be in conflict with the resolutions heretofore set forth, Robert's Rules of Order, newly revised, shall constitute the parliamentary guide of the Board.

100.F30 AMENDMENTS OF BOARD POLICIES

These policies, or any part or parts thereof, may be revised, repealed, or added to by an affirmative vote of at least three trustees at any meeting of the Board. They shall become effective immediately upon approval.

100.F40 BOARD OFFICES

The Board shall maintain an office at 1933 Fort Vancouver Way, Vancouver, WA, 98663-3598, where all records, minutes, and the official College seal shall be kept.

This office shall be open during normal business hours, or otherwise accessible by email.

Correspondence or other business for the Board shall be sent to the secretary of the Board, who is located in this office.

100.F50 COLLEGE DEBT

The College, in accordance with Chapter 28B.50.140(6), may, with the approval of the State Board for Community and Technical Colleges (SBCTC) borrow money and issue and sell revenue bonds in accordance with the provision of RCW 28B.10.300 through 28B.10.330, where applicable, for the purchase of high-cost fixed assets and equipment.

It is the policy of the College to effectively manage the appropriate level of debt to ensure adequate resources are available to meet debt service requirements to spread the cost of high-cost fixed assets and equipment over the useful life of the assets. Debt service may be funded using two different methods and both can be in effect at the same time depending on the debt needs of the College.

Debt supported by general and operating revenues:

The College shall not incur debt or borrow money which will cause the aggregate debt obligation by the College to exceed that amount for which payments of principal and interest in any fiscal year would require the College to expend more than three percent of the average general operating revenues, less earmarked funds, for the three immediately preceding fiscal years. General operating revenues include state allocations, tuition, interest, and Enterprise and Internal Service funds.

Debt supported by other revenues:

Debt serviced by other revenues will be supported by a stable funding source other than the College's state allocation, tuition, or dedicated fee revenues. The other revenue source must be sufficient to cover normal operating expenses of the unit (if any) plus the anticipated annual debt service costs over the life of the debt schedule.

*Approved August
2008*

100.G00 FOUNDATION POLICY STATEMENT

In recognizing the Clark College Foundation as a separate, nonprofit corporation, the Board is both supportive and appreciative of the Foundation's role in assisting the College. The Board understands that the primary mission of the Foundation is to obtain financial and other direct support and benefit for the College. The use of funds and other resources will be for physical and capital improvements, student financial assistance, Foundation operations, and other purposes as designated by donors and accepted by the College. The relationship is further defined by the terms of the current Quid Pro Quo agreement. The Board will be provided with regular financial reports, minutes of meetings, and other appropriate documents of the Foundation.

WPEA/UFCW Local 365, Clark College Unit

Board Report for September 2021

MEETINGS

WPEA Steward meeting on Mondays 12:00 PM

WPEA members meetings on Third Thursday evenings

COMMUNICATION

Current contact for campus stewards:

Co-Chief Shop Stewards

Courtney Braddock 360-992-2196

Chris Layfield 360-992-2933

Communications Officer

David Sims 360-992-2132

Shop Stewards

Josh Chambers MS: FST034

Angela Dawson 360-992-2515

Becky Lindsay 360-992-2575

Danielle Plesser 360-992-2273

Member Leaders

Jenny Shadley 360-992-2051

WPEA Classified Staff News:

The Clark College WPEA would like the Board of Trustees to know that we appreciate having the opportunity to speak with you on important matters.

- The WPEA would like to congratulate Damon Grady and Jordan Devan who were named 2021's Exceptional Classified Staff!
- Student Affairs, HR, ComMark, and Bookstore staff has begun to return to campus with many staff returning to in-person services on September 7th. We are eager to work with our students and coworkers safely back in-person
- WPEA is working with HR regarding concerns with the plan for our student affairs staff returning to campus. WPEA wants to ensure that the college is following the contract when requesting schedule changes for staff so that WPEA has the opportunity to bargain impacts staff may have when returning to campus.
- WPEA and HR are still bargaining impacts in the multiple outstanding demands to bargain requests
- Lastly, The WPEA would like to thank the Clark College AHE and Clark College for being able to coordinate the logistics for another vaccine clinic. The clinic, unfortunately, had to be canceled due to the low number of folks that signed up

Clark College Foundation Board of Trustees Report September 2021

I would like to start my report this month by saying that the announcement regarding my intended transition from CEO at the end of this academic year has been one that was not taken lightly. My career at Clark College and the Foundation has been tremendously rewarding. The work we have undertaken together has challenged us in ways we could never have imagined and it has allowed us all to grow and learn as we focused on the community we serve. I have been honored to represent this institution over these years and I look forward to lending my skills to the next campus at Boschma Farms along with other identified projects.

Throughout the balance of this year, the Foundation will remain focused on this mindful and strategic transition in leadership, while supporting staff and completing the “Promising Pathways: A campaign for Clark College.” The goal is within reach, but we cannot take our eyes off of the critical support needed at this time. The partnership and collaborative relationship between our institutions is more critical today than ever before. I am excited about the future and role this college and foundation will continue to play in our community.

The following represents aspects of the foundation that directly relate to the institutional goals of Clark College.

1. Improve Student Success

Despite the pandemic, fiscal year 2022 has started off fast and furiously when it comes to Clark College Foundation’s advancement efforts.

To begin with, our frontline development team has already secured more than \$1.5 million in cash, pledges, verbal or contractual commitments. That’s approximately 2/3rds of everything that was raised last year – and in only a two-month period of time. We are hoping this portends a much more active and productive fundraising year, as people feel more comfortable engaging with foundation personnel about how and when they would like to contribute to Clark College.

FY 2022 marks the final year in the college’s \$30 million fundraising campaign: Promising Pathways. We have raised more than \$28 million to date. Not only are we excited about the fact we are coming so close to our overall goal, but preliminary data indicates that we are achieving many of our other goals embedded within the larger campaign.

For example, we wanted to raise gifts from more than 5,000 unique donors. We have surpassed that goal with nearly 5,100 unique individuals and entities participating in the campaign to date. More than 65% of those donors are brand

new donors, or donors who have significantly increased their financial commitment to the foundation.

More than a third of the campaign total raised to date comes in the form of endowment gifts. This is on target with what we had hoped to raise in this area. Endowment gifts help secure the long-term financial viability of the college and the foundation. Today, our endowment stands at more than \$81 million, placing Clark College Foundation in the top 4 community college endowments in the nation. The remarkable story about how Clark College Foundation built its endowment pool is highlighted in an article that will be appearing in the Journal of Advancement later this fiscal year. The journal is an international, peer reviewed academic publication, and the article is written by Lisa Gibert with contributions from Joel B. Munson, Chief Advancement Officer for Clark College Foundation.

Also significant -- to date, the foundation has raised approximately \$14 million in scholarships during the campaign. Originally that goal was set at \$8 million, so we have nearly doubled that original goal amount, with a little less than a year to go in this critically important fundraising effort. All-in-all, great milestones within the context of the overall campaign of Promising Pathways.

2. Achieve Financial Stability

The Foundation will be working with Galina Burley, Executive VP of Operations, in the next few months in making her aware of the resources housed at the Foundation that can support the varying areas of Clark College. These restricted funds support donor designated areas of the college and are available when requested. The Foundation is committed to working directly with departments that hold funds so that all resources available are known and can be most effectively utilized.

3. Improve Campus Climate

As mentioned last meeting, the foundation has received and reviewed the drafted operating agreement. The comments have been captured and returned to Maren Calvert who will connect with the AAG's office. I am convinced we will be able to complete this exercise soon. Thank you for your assistance in this agreement and I am sure it will secure our working relationship for years to come.

4. Expand and Deepen Community Engagement

This summer has provided the foundation time to revisit stakeholders and supporters of the college in an effort to update and inform them of our current campaign status and operational challenges. The pandemic keeps all businesses ready to pivot as necessary to the ever changing circumstances presented. As

our community reacts to these changes, we see our work in helping to support their efforts by reporting back to the institution some of the factors being relayed.

These conversations have been meaningful, heartfelt and engaging, as constituents are coming back to the table and seeing how important the college is to our overall recovery. These conversations have broadened our thinking, added more questions to answer and enhanced the resolve that we will no longer be the same, but need to embrace uncertainty and forge at a speed and creativity that has never been asked of us before. Yes, this moment in time remains scary, but it also provides opportunities that can propel us to an even greater level of success. The challenge is here; now our work performed together can position us for that brighter future if we take the risk and embrace the journey.

Respectfully submitted,

Lisa Gibert, CEO
Clark College Foundation



Mia Linnik

SUPPORTING
DREAMERS
AT CLARK

ROSALBA PITKIN,
SHE/HER(S)/ELLA

WHO ARE DREAMERS AT CLARK?

- An adult without documents who entered the U.S. without immigration authorization
- A child who was born out of the U.S. and who was brought to the U.S. by a parent or guardian
- A person who overstayed their visa and remained in the country after their visa had expired
- DACA students Deferred Action for Childhood Arrivals (DACA) created by President Obama's executive order on June 15, 2012
- SB 5194 makes residency determinations for tuition and state financial aid purposes at Washington's higher education institutions.

**DREAMERS COME FROM ALL OVER THE WORLD,
NOT JUST SPANISH SPEAKING COUNTRIES**

CHALLENGES FOR DREAMERS AT CLARK

Social security number

- Pay international student rates
- Experiential Learning

Federal monies

- Issues with immigration

Families in process of citizenship

- Could impact process

Degree and career choices

Yo-yo effect of government choices

Unfamiliarity with U.S. educational system

U.S. may not honor prior education or work experience



EXAMPLE OF STUDENT INQUIRY

"I'm a new student at Clark and I have just finished summer term. I'm trying to pay for those courses however Clark is charging me out of state tuition though I've been a Washington resident since 2011. I'm in the process of receiving my DACA documents however, the laws have been changing which have extended the time of arrival. I cannot afford to pay out state tuition. I would like to continue Clark fall term which means residency deadline being Sunday. I would greatly appreciate any help."

SUPPORT FOR DREAMERS

Write letters verifying student enrollment for attorneys

Bilingual family orientations – explaining the U.S. educational system and Clark College policies

Work with Enrollment Services very closely to provide notarized copies of transcripts

Track and monitor State and Federal legislation to inform students and families of changes that may impact their status

Work with organizations to coach Dreamers on how to advocate for legislation that may impact them

Advocate for students and their needs

Provide direct 1:1 support to students and families to help them holistically – food, scholarships, attorney, medical, etc.

Approximately 35 students per week come through ODEI (Rosalba's) office to receive assistance.



THANK YOU!

Washington Administrative Code

Facilitated by:

Galina Burley, she/her

Executive Vice President of
Operations



Key Points

- The Revised Code of Washington (RCW) is the compilation of all permanent laws currently in force in Washington state.
- [Washington Administrative Code](#) (WAC) are the administrative rules and regulations by which state agencies operate to execute the laws enacted by the Legislature. The WAC codifies the rules and arranges them by subject or agency.
- The Administrative Procedure Act (APA) is found at RCW 34.05 and sets forth the WAC/rule-making laws for state agencies. The APA requires, among other things, public notice and a public hearing.



Clark College WACs

<u>132N-10</u>	State Environmental Policy Act guidelines.
<u>132N-108</u>	Procedure.
<u>132N-122</u>	Withholding services for outstanding debts.
<u>132N-125</u>	Code of student conduct.
<u>132N-128</u>	Faculty tenure.
<u>132N-150</u>	College facilities.
<u>132N-153</u>	First amendment activities for Community College District 14.
<u>132N-156</u>	Parking and traffic rules and regulations.
<u>132N-160</u>	Administration.
<u>132N-276</u>	Public records.
<u>132N-300</u>	Grievance procedure—Discrimination.
<u>132N-400</u>	Loss of eligibility—Student athletic participation.



Why
changes
laws, rules,
policies?

Changes in society

Technological advancement

To comply with a change in Federal or State laws

Comply with the Governor's executive orders

To protect consumer rights

Reflect morals and values of a society

Community protection

To stay current

And many other reasons



Today's
public
hearing:

WAC 132N-122-010, Withholding
Services for Outstanding Debt (amend)

WAC 132N-125, Code of Student
Conduct (repeal)

WAC 132N-126, Student Code of
Conduct (adopt)

WAC 132-300, Grievance procedure—
Discrimination (repeal)

Board Action

- Requesting Board's approval to:
 - A. Amend - WAC 132N-122-010, Withholding Services for Outstanding Debt
 - B. Repeal - WAC 132N-125, Code of Student Conduct
 - C. Adopt - WAC 132N-126, Student Code of Conduct
 - D. Repeal - WAC 132-300, Grievance procedure—Discrimination

Board Action

A. Amend WAC 132N-122-010, Withholding Services for Outstanding Debt

Why?

Change in WA state law: HB 2513-effective 6/11/2020 (codified at RCW 28B.10.293)

- No longer allowed to withhold student transcripts due to debt
- Removed the word transcripts from the list of services withheld

Board Action

- B. Repeal - WAC 132N-125, Code of Student Conduct**
- C. Adopt - WAC 132N-126, Student Code of Conduct**
- D. Repeal - WAC 132-300, Grievance procedure—Discrimination**

Why?

Change in federal Title IX regulations:

- Changes went into effect in August 2020
- Board previously adopted emergency rules to bring the College into compliance with federal rule changes, emergency rules will expire in October 2021

Board Action

C. Adopt - WAC 132N-126, Student Code of Conduct

Additional Changes Requested to the following proposed WACs:

1. Remove requirement for Cross-Examination in WAC 132N-126-230
 - Recent federal court ruling striking down part of new Title IX regulations
2. Appeals in WAC 132N-126-240
 - Clarify process for appeals

Q&A and Next Steps



AMENDATORY SECTION (Amending WSR 97-23-019, filed 11/10/97, effective 12/11/97)

WAC 132N-122-010 Policy. If any person, including faculty, staff, student or former student, is indebted to the college for an outstanding debt, the college need not provide any further services of any kind to such individual(~~(r)~~) including, but not limited to, transmitting files, records, admission to or registration with the college, conferring of degrees, (~~(transcripts)~~) or other services which have been requested by such person. Further, if the person is an employee of the college, the college shall have the right to offset such outstanding debts against the wages owed to the employee.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132N-125-005	Student responsibilities.
WAC 132N-125-010	Authority.
WAC 132N-125-015	Definitions.
WAC 132N-125-020	Statement of jurisdiction.
WAC 132N-125-025	Students studying abroad.
WAC 132N-125-030	Statement of student rights.
WAC 132N-125-035	Prohibited student conduct.
WAC 132N-125-040	Trespass.
WAC 132N-125-045	Disciplinary sanctions—Terms— Conditions.
WAC 132N-125-100	Initiation of disciplinary action.
WAC 132N-125-105	Appeal from disciplinary action.
WAC 132N-125-110	Brief adjudicative proceedings—Initial hearing.
WAC 132N-125-115	Brief adjudicative proceedings—Review of an initial decision.
WAC 132N-125-120	Student conduct committee.
WAC 132N-125-125	Appeal—Student conduct committee.
WAC 132N-125-130	Student conduct committee hearings— Presentation of evidence.
WAC 132N-125-135	Student conduct committee—Initial decision.
WAC 132N-125-140	Appeal from student conduct committee initial decision.
WAC 132N-125-145	Summary suspension.
WAC 132N-125-150	Classroom misconduct and authority to suspend for no more than one day.
WAC 132N-125-200	Supplemental sexual misconduct procedures.
WAC 132N-125-205	Supplemental definitions.
WAC 132N-125-210	Supplemental complaint process.
WAC 132N-125-215	Supplemental appeal rights.
WAC 132N-125-220	Brief adjudicative proceedings—College record.
WAC 132N-125-225	Recordkeeping.

**Chapter 132N-126 WAC
STUDENT CODE OF CONDUCT**

NEW SECTION

WAC 132N-126-005 Authority. The board of trustees of Washington State Community College District No. 14, acting pursuant to RCW 28B.50.140(13), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice president of student affairs or their designee. Unless otherwise specified, the student conduct officer or designee shall serve as the principal investigator and administrator for alleged violations of this code.

NEW SECTION

WAC 132N-126-010 Definitions. The following definitions shall apply for the purposes of this student conduct code:

(1) "ASCC" means the associated students of Clark College as defined in the constitution of that body.

(2) "Assembly" means any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons, or group of persons.

(3) "Business day" means a weekday, excluding weekends and college holidays.

(4) "College" means Clark College and any other community college centers or premises established within Community College District No. 14, state of Washington.

(5) "College community" means trustees, students, staff, faculty, and visitors on college premises.

(6) "College official" includes any person employed by the college performing assigned duties.

(7) "College premises" includes all campuses and electronic presences of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, computer systems, websites, and other property owned, used, or controlled by the college.

(8) A "complainant" is an alleged victim of sexual misconduct.

(9) "Conduct review officer" is the vice president of student affairs or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code.

(10) "Controlled substance" means and includes any drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

(11) "Day" means a weekday, excluding weekends and college holidays.

(12) "Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

(13) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

(14) "Faculty member" and "instructor" means any employee of Community College District No. 14, state of Washington, who is employed on a full-time or part-time basis as a teacher, instructor, counselor, or librarian.

(15) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) By sending the document by email and first class mail to the specified college official's office and college email address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(16) "The president" is the president of the college. The president is authorized to:

(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and

(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(17) "RCW" means Revised Code of Washington which can be accessed at <http://apps.leg.wa.gov/rcw/>.

(18) "Respondent" is the student against whom disciplinary action is initiated.

(19) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by email and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail.

(20) "Sexual misconduct" has the meaning ascribed to this term in WAC 132N-126-025(13).

(21) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students" for purposes of this chapter.

(22) "Student conduct officer" is a college administrator designated by the president to be responsible for implementing and enforcing the student conduct code.

NEW SECTION

WAC 132N-126-015 Statement of jurisdiction. (1) The student conduct code shall apply to student conduct that occurs:

- (a) On college premises;
- (b) At or in connection with college-sponsored activities; or
- (c) Off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives.

(2) Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities.

(3) Students are responsible for their conduct from notification of acceptance at the college through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(4) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct that occurs off campus.

NEW SECTION

WAC 132N-126-020 Statement of student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth.

Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college:

(1) **Academic freedom.**

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college premises that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting

the standards of academic performance established by each of their instructors.

Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) **Due process.**

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

NEW SECTION

WAC 132N-126-025 Prohibited student conduct. The college may impose disciplinary sanctions against a student who commits, attempts to commit, aids, abets, incites, encourages, or assists another person to commit, an act(s) of misconduct which include, but are not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) Cheating: Includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) Academic consequences for academic dishonesty or abetting in academic dishonesty may be imposed at the discretion of a faculty member up to and including a failing grade for the course. Students should refer to each of their faculty's course syllabus and program handbook. Further academic consequences may follow consistent with the provisions in any program handbook including, but not limited to, dismissal from an academic program. Incidents of academic dishonesty may also be referred to the student conduct officer for disciplinary action consistent with this chapter in addition to the academic consequences identified above.

(2) **Other dishonesty.** Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(3) **Obstructive or disruptive conduct.** Conduct, not otherwise protected by law, that interferes with, impedes, or otherwise unreasonably hinders:

(a) Instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior, not otherwise protected by law that intentionally humiliates, harms, or intimidates the victim.

(5) **Cyber misconduct.** Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(7) **Failure to comply with directive.** Failure to comply with the directive of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing

and shall be subject to such terms or conditions incorporated in the written permission.

This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

(9) **Hazing.** Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(10) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** The use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** The use, possession, delivery, or sale of marijuana or the psychoactive compounds found in marijuana intended for human consumption, regardless of form, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(c) **Drugs.** The use, possession, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(d) **Tobacco, electronic cigarettes and related products.** The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(11) **Lewd conduct.** Conduct which is lewd or obscene that is not otherwise protected under the law.

(12) **Discriminatory conduct.** Conduct which harms or adversely affects any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC 132N-126-205 (discipline procedures for cases involving allegations of Title IX violations).

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome sexual or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:

(i) Deny or limit the ability of a student to participate in or benefit from the college's educational program;

(ii) Alter the terms or conditions of employment for a college employee(s); and/or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of eighteen.

(iv) Statutory rape. Consensual intercourse between a person who is eighteen years of age or older, and a person who is under the age of sixteen.

(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(vi) Dating violence, physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for their safety or the safety of others; or

(B) Suffer substantial emotional distress.

(d) For purposes of this code, "consent" means knowing, voluntarily, and clear permission by word or action, to engage in mutually

agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program, that changes the terms or conditions of employment for a college employee, or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic communications.

(15) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(16) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

(17) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(18) **Safety violations.** Nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(19) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(20) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

NEW SECTION

WAC 132N-126-030 Disciplinary sanctions and terms and conditions. (1) The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code.

(a) **Disciplinary warning.** A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(d) **Disciplinary suspension.** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled premises without any possibility of re-

turn. There will be no refund of tuition or fees for the quarter in which the action is taken.

(2) Disciplinary terms and conditions that may be imposed alone or in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(b) **Educational sanction.** The college may require the student to complete an educational activity or experience directly related to the violation committed, at the student's expense.

(c) **Professional evaluation.** Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(d) **Not in good standing.** A student may be deemed "not in good standing" with the college. If so, the student shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(e) **No contact order.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college premises.

(f) **No trespass order.** A student may be restricted from college property based on their misconduct.

NEW SECTION

WAC 132N-126-035 Conduct hold on student records. (1) A student conduct officer or other designated college official may place a conduct hold on the student's record if the student is the responding party in a pending complaint of prohibited conduct, a pending conduct proceeding under this code, or in conjunction with a disciplinary sanction or condition under this code.

(2) A conduct hold may restrict the student from registering for classes, requesting an official transcript, or receiving a degree from the college until the hold has been removed.

(3) If the conduct hold is placed pending or during a conduct proceeding, the student will be notified of the hold and be advised

how to raise an objection about the hold or request that it be made less restrictive. The hold will remain in place until lifted by the student conduct officer or other designated college official with authority to do so.

(4) Implementation of any conduct hold prior to disciplinary action does not assume any determination of, or create any expectation of, responsibility for prohibited conduct under this conduct code.

NEW SECTION

WAC 132N-126-040 Amnesty policy. (1) Clark College values the health, safety, and wellness of those in our college community. Students are encouraged to report crimes, share concerns, and seek medical attention for themselves or others in need.

(2) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of helping another person seek medical or other emergency assistance, admits to a possible policy violation under this student conduct code, provided that any such violations did not and do not place the health or safety of any other person at risk.

(3) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of reporting violence, sexual misconduct, or a crime in progress, admits to personal consumption of alcohol or drugs at or near the time of the incident, provided that any such use did not place the health or safety of any other person at risk.

(4) While policy violations cannot be overlooked, the college may elect to offer educational options or referrals, rather than initiating disciplinary action against students who report crimes, serve as witnesses, or seek medical attention as described in this section.

(5) This amnesty policy may not apply to students who repeatedly violate college policies in regards to alcohol, drugs, or other prohibited conduct.

NEW SECTION

WAC 132N-126-045 Interim measures. (1) After receiving a report of alleged sexual misconduct or other serious student misconduct, a student conduct officer or designee 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 an impacted party, a responding party, a reporting party, other specified persons, and/or a specific student organization;

(b) Changes to class schedules, assignments, or test schedules;

(c) Modified on-campus employment schedule or location;

(d) Restrictions on access to portions of campus; or

(e) Alternative safety arrangements such as campus safety escorts.

(2) If an interim measure is put in place pending or during a conduct proceeding, the student will be notified of the interim meas-

ure and be advised how to raise an objection about the interim measure or request that it be made less restrictive. The student conduct officer may adjust or modify interim measures as students' situations and schedules change and evolve over time. Interim measures will remain in place until the student receives notice they have been lifted or modified from the student conduct officer.

(3) Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for, a violation under this student conduct code.

NEW SECTION

WAC 132N-126-050 Records. (1) Student conduct code records are maintained in accordance with the college's records retention schedule.

(2) The disciplinary record is confidential, and is released only as authorized under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

HEARING PROCEDURES

NEW SECTION

WAC 132N-126-100 Initiation of disciplinary action. (1) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

(3) The student conduct officer, prior to taking disciplinary action in a case involving allegations of sexual misconduct, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or condi-

tions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(4) Within ten days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(5) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings.

(b) Impose a disciplinary sanction(s), as described in WAC 132N-126-030.

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

(6) In cases involving allegations of sexual misconduct, the student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure that prompt notice of the protective disciplinary sanctions and/or conditions.

NEW SECTION

WAC 132N-126-105 Appeal from disciplinary action. (1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within ten days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

(10) In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:

(a) The dismissal of a sexual misconduct complaint; or

(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(11) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(12) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

NEW SECTION

WAC 132N-126-110 Brief adjudicative proceedings authorization.

Brief adjudicative proceedings shall be used for student conduct appeals involving the following disciplinary actions:

(1) Suspension of ten instructional days or less;

(2) Disciplinary probation;

(3) Written reprimands;

(4) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions; and

(5) Appeals by a complainant in student disciplinary proceeding involving allegations of sexual misconduct in which the student conduct officer:

(a) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or

(b) Issues a verbal warning to respondent.

NEW SECTION

WAC 132N-126-115 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent, the student conduct officer, and in cases involving sexual misconduct, the complainant. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party (a) an opportunity to be informed of the agency's view of the matter and (b) an opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the respondent and the student conduct officer within ten days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within ten days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights.

(5) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

WAC 132N-126-120 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president or designee, provided a party files a written request for review with the conduct review officer within ten days of service of the initial decision.

(2) The president or designee shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president or designee shall give all parties an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings

should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president or designee does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

(6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.

NEW SECTION

WAC 132N-126-125 Student conduct committee. (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government (ASCC);

(b) Two faculty members appointed by the president; and

(c) One faculty member or administrator, other than an administrator serving as a student conduct or conduct review officer, appointed by the president to serve as the chair.

(2) The faculty member or administrator or other impartial hearing officer who serves as the chair of the committee may take action on preliminary hearing matters prior to convening the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition the committee for disqualification of a committee member.

NEW SECTION

WAC 132N-126-130 Appeal—Student conduct committees. (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW and by the model rules of procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of (a) the conduct officer's notification of imposition of discipline, or referral to the committee, and (b) the notice of appeal, or any response to referral, by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent and complainant in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) In cases heard by the committee, each party may be accompanied at the hearing by a nonattorney assistant of their choice.

(10) The respondent in all appeals before the committee, or a complainant in an appeal involving allegations of sexual misconduct before the committee, may elect to be represented by an attorney at their own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer.

(11) The committee will ordinarily be advised by an assistant attorney general. If the respondent and/or the complainant is represen-

ted by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

NEW SECTION

WAC 132N-126-135 Student conduct committee hearings—Presentation of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

- (a) Proceed with the hearing and issuance of its decision; or
- (b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of sexual misconduct, no party shall directly question or cross examine one another. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf.

NEW SECTION

WAC 132N-126-140 Student conduct committee—Initial decision.

(1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include find-

ings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions, if any, as authorized in the student code. If the matter is an appeal by a party, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

(5) In cases involving allegations of sexual misconduct, the chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of their appeal rights.

NEW SECTION

WAC 132N-126-145 Appeal from student conduct committee initial decision. (1) A party who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office within ten days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. If necessary to aid review, the president or designee may ask for additional briefing from the parties on issues raised on appeal. The president's or designee's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president or designee shall provide a written decision to the party and the student conduct officer within twenty days after receipt of the notice of appeal. The president's or designee's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) In cases involving allegations of sexual misconduct, the president or designee, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

(5) The president or designee shall not engage in an ex parte communication with any of the parties regarding an appeal.

NEW SECTION

WAC 132N-126-150 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included warning the respondent that their privilege to enter into or remain on college premises has been withdrawn, and that the respondent shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) (a) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(b) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion

of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(d) If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(f) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

(6) In cases involving allegations of sexual misconduct, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

NEW SECTION

WAC 132N-126-155 Classroom misconduct and authority to suspend for no more than one day. (1) Faculty members have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course.

(2) Bringing any person, thing, or object to a teaching and learning environment that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member is expressly prohibited.

(3) Faculty members or college administrators have the right to suspend any student from any single class or related activity for no more than one instructional day, if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, related activity, or the learning and teaching environment. The faculty member or college administrator shall report this suspension to the student conduct officer or designee on the same day of the suspension. In consultation with the faculty member, the student conduct officer may set conditions for the student upon return to the class or activity.

NEW SECTION

WAC 132N-126-160 Sexual misconduct proceedings. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in

the initial disciplinary decision-making process and to appeal any disciplinary decision.

SUPPLEMENTAL STUDENT CONDUCT PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF VIOLATION OF TITLE IX

NEW SECTION

WAC 132N-126-200 Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with Clark College's standard disciplinary procedures, WAC 132N-126-005 through 132N-126-155, these supplemental procedures shall take precedence. The college may, at its own discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

NEW SECTION

WAC 132N-126-205 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, Clark College may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" encompasses the following conduct:

(1) Quid pro quo harassment. A Clark College employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) Statutory rape. Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

NEW SECTION

WAC 132N-126-210 Title IX jurisdiction. (1) This supplemental procedure applies only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a Clark College educational program or activity; and

(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by Clark College.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit Clark College from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student conduct code, WAC 132N-126-025.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

NEW SECTION

WAC 132N-126-215 Initiation of discipline. (1) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;

(b) Identify the alleged Title IX violation(s);

(c) Set forth the facts underlying the allegation(s);

(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); and

(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

(ii) An advisor may be an attorney; and

(iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.

(3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

NEW SECTION

WAC 132N-126-220 Prehearing procedure. (1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132N-126-100. In no event will the hearing date be set less than ten days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether Clark College intends to offer the evidence at the hearing.

NEW SECTION

WAC 132N-126-225 Rights of parties. (1) Clark College's student conduct procedures, WAC 132N-126-100 through 132N-126-155, and this supplemental procedure shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

NEW SECTION

WAC 132N-126-230 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.

(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

- (a) Spousal/domestic partner privilege;
- (b) Attorney-client and attorney work product privileges;
- (c) Privileges applicable to members of the clergy and priests;
- (d) Privileges applicable to medical providers, mental health therapists, and counselors;
- (e) Privileges applicable to sexual assault and domestic violence advocates; and
- (f) Other legal privileges identified in RCW 5.60.060.

NEW SECTION

WAC 132N-126-235 Initial order. (1) In addition to complying with WAC 132N-126-130, the student conduct committee will be responsible for conferring and drafting an initial order that:

- (a) Identifies the allegations of sexual harassment;
- (b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
- (c) Makes findings of fact supporting the determination of responsibility;
- (d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;
- (e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;
- (f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;
- (g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to Clark College's educational programs or activities; and
- (h) Describes the process for appealing the initial order to the Clark College president.

(2) The committee chair will serve the initial order on the parties simultaneously.

NEW SECTION

WAC 132N-126-240 Appeals. (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132N-126-145.

(2) The president or their designee will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) im-

posed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) President's office shall serve the final decision on the parties simultaneously.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132N-300-001 Statement of policy.

WAC 132N-300-010 Grievance procedure.

Clark College - Budget Status Report August 31, 2021

Sources of Funds (Revenues)	2021-22 Budget	Revenues to Date	Difference	% Budget Received
<u>Operating Accounts</u>				
State Allocation	40,354,605	4,070,444	(36,284,161)	10.1%
Tuition & ABE	14,337,358	6,669,462	(7,667,896)	46.5%
Running Start /Cares lost revenue	16,848,702	-	(16,848,702)	0.0%
Planned use of prior fund balance	-	-	-	0.0%
Dedicated, matriculation, tech, cont ed	4,863,054	1,525,697	(3,337,357)	31.4%
Total Operating Accounts	76,403,719	12,265,603	(64,138,116)	16.1%
<u>Other Accounts</u>				
Grants	11,234,053	449,645	(10,784,409)	4.0%
Contracts	930,019	367,870	(562,149)	39.6%
Internal Support & Agency Funds	536,719	188,198	(348,521)	35.1%
ASCC	2,017,028	548,139	(1,468,889)	27.2%
Bookstore	4,181,728	270,909	(3,910,819)	6.5%
Parking	477,524	106,877	(370,647)	22.4%
Auxilliary Services	2,340,930	677,823	(1,663,107)	29.0%
Financial Aid	20,180,780	2,796,091	(17,384,689)	13.9%
Total Other Accounts	41,898,781	5,405,552	(36,493,230)	12.9%
Total Sources of Funds	118,302,500	17,671,154	(100,631,346)	14.9%

Uses of Funds (Expenses)	2021-22 Budget	Encumbrances Expenditures to Date	Difference	% Budget Spent
<u>Operating Accounts</u>				
President	1,341,277	122,171	1,219,106	9.1%
Vice President of Diversity, Equity & Inclusion	640,297	95,508	544,789	14.9%
Vice President of Instruction	48,291,333	4,339,919	43,951,414	9.0%
Executive VP of Operations	10,341,514	3,169,397	7,172,117	30.6%
Vice President of Student Affairs	9,013,810	1,426,439	7,587,371	15.8%
Chief Information Officer	5,381,863	852,700	4,529,163	15.8%
Vice President of Human Resources and Compliance	1,393,625	229,615	1,164,010	16.5%
Bank/CC Fees	-	25,202	(25,202)	0.0%
Total Operating Accounts	76,403,719	10,260,952	66,142,767	13.4%
<u>Other Accounts</u>				
Grants	11,234,053	456,857	10,777,196	4.1%
Contracts less Running Start	930,019	539,982	390,037	58.1%
Internal Support & Agency Funds	536,719	240,921	295,798	44.9%
ASCC	2,017,028	189,640	1,827,388	9.4%
Bookstore	4,181,728	695,051	3,486,677	16.6%
Parking	477,524	90,207	387,317	18.9%
Auxilliary Services	2,340,930	380,114	1,960,816	16.2%
Financial Aid	20,180,780	3,152,829	17,027,951	15.6%
Total Other Accounts	41,898,781	5,745,599	36,153,182	13.7%
Total Uses of Funds	118,302,500	16,006,551	102,295,949	13.5%
Difference - Excess (Deficiency)	-	1,664,603		

c. Dr. Karin Edwards, Sabra Sand, Michele Cruse
e. Cindi Olson, Nicole Rogers-Marcum, Sabra Sand, Stephanie Weldy
Linda Tuve 9/13/2021