

# **Proposed Revisions for the Code of Student Conduct**

## **Chapter 132N-121 WAC Code of Student Conduct (Formerly chapter 132N-120 WAC)**

### **WAC 132N-121-010 Code of student conduct.**

(1) Clark College provides its community and students with education and services of the highest quality. We do this in a manner which exhibits concern and sensitivity to students, faculty, staff and others who utilize our services and facilities. It is essential that members of Clark College exhibit appropriate and conscientious behavior in dealing with others.

(2) Clark College expects all students to conduct themselves in a manner consistent with its high standards of scholarship and conduct. Student conduct, which distracts from or interferes with accomplishment of these purposes, is not acceptable. Students are expected to comply with these standards of conduct for students both on and off campus and acknowledge the college's authority to take disciplinary action.

(3) Admission to Clark College carries with it the presumption that students will conduct themselves as responsible members of the academic community. This includes an expectation that students will obey the law, comply with policies, procedures and rules of the college and its departments, maintain a high standard of integrity and honesty and respect the rights, privileges and property of other members of Clark College.

(4) It is assumed that students are and wish to be treated as adults. As such, students are responsible for their conduct. These standards of conduct for students promote Clark College's educational purposes and provide students a full understanding of their rights and responsibilities. Sanctions for violations of the standards of conduct for students will be administered under this chapter. When violations of laws of the state of Washington and/or the United States are also involved, the college may refer such matters to proper authorities and in the case of minors, this conduct may be referred to parents or legal guardians.

### **WAC 132N-121-020 Authority.**

The board of trustees, acting pursuant to RCW 28B.50.140(14), 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 designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

## **WAC 132N-121-030 Definitions.**

As used in this chapter, the following words and phrases shall be defined as follows:

(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) "Board" means the board of trustees of Community College District No. 14, state of Washington.

(4) "College" means Clark College and any other community college centers or facilities established within Washington State Community College District No. 14.

(5) "College community" means trustees, students, staff, faculty, and visitors on college owned or controlled facilities.

(6) "College facilities" and "college facility" means and includes any and all real and personal property owned, rented, leased or operated by the board of trustees of Washington State Community College District No. 14, and shall include all buildings and appurtenances attached thereto and all parking lots and other grounds. College facilities extend to distance education classroom environments, and agencies or institutions that have educational agreement with the college.

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

(8) "College premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College.

(9) "Committee on Student Conduct" is the body authorized by the vice president of student affairs to determine whether a student has violated the code of student conduct and the type of sanction(s) imposed when a violation has been committed.

(10) "Complainant" means any person who submits a charge alleging that a student violated the code of student conduct.

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

(12) "Day" means calendar day, and does not include Saturdays, Sundays, or legal holidays. Timelines set forth in this chapter may be extended in unusual circumstances as determined by the vice president for student affairs. Also see WAC 10-08-080 Computation of time, adopted pursuant to WAC 132N-108-010.

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

(14) "President" means the president of Clark College and Community College District No. 14, state of Washington, and for the purposes of these rules includes "acting president" or the delegated authority in the absence of the president.

(15) "RCW" means Revised Code of Washington which can be accessed at <http://apps.leg.wa.gov/rcw/>. A copy is also available in the office of the vice president of administrative services.

(16) "Student," means and includes any person who is registered for classes or is formally in the process of applying for admission to the college. Persons who are not registered for a particular term but who have a continuing relationship with the college, or persons who withdraw after allegedly violating the conduct code, are considered "students."

(17) "Student conduct officer (SCO)" means the college administrator designated by the vice president of student affairs who is responsible for investigating alleged violations of this code and administering the rights and responsibilities code. The term also includes a college official designated by the student conduct officer to act on his/her behalf in matters related to this chapter.

(18) "Student organization" means any number of students who have met the formal requirements of clubs and organizations.

(19) "Trespass" means the definition of trespass as contained within chapter 9A.52 RCW, as now law or hereafter amended.

### **132N-121-040 Jurisdiction.**

(1) The standards of conduct for students adopted herein apply to conduct that occurs on college premises, at college-sponsored activities, and to off-campus conduct as outlined below that adversely affects the well-being of the Clark College community and/or the pursuit of its objectives. Jurisdiction extends to locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel activities funded by ASCC, athletic events, training internships, cooperative and distance education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission 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. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The vice president of student affairs has sole discretion, on a case-by-case basis, to determine whether the code of student conduct will be applied to conduct occurring off campus.

(2) Faculty members, college employees, students, and members of the public who breach or aid or abet another in the breach of any provision of this chapter shall be subject to:

(a) Possible prosecution under the state criminal law;

(b) Any other civil or criminal remedies available to the public; or

(c) Appropriate disciplinary action pursuant to the state of Washington personnel resource board rules, collective bargaining agreements, or the district's policies and regulations.

(3) This chapter is not exclusive, and where conduct becomes known which may also violate any other rule or provision of law, nothing herein shall limit the right or duty of any person to report elsewhere or seek another remedy for that conduct.

### **132N-121-045 Students studying abroad.**

Students who participate in any college-sponsored or sanctioned international study program shall observe the following:

- (1) The laws of the host country;
- (2) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;
- (3) Any other agreements related to the student's study program in another country; and
- (4) Clark College's standards of conduct for students.

### **132N-121-050 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 facilities 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.
  - (d) 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.

### **132N-121-060 Grounds for Discipline.**

Discipline may be imposed for the commission or attempted commission (including aiding or abetting in the commission or attempted commission) of the following types of misconduct, as well as such other violations as may be specified in college regulations:

(1) Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other college activity, whether occurring on or off college property, or (b) any other authorized non-College activity when the conduct occurs on college premises.

(2) Assault, physical abuse, verbal abuse, threats, intimidation, harassment, coercion, or other conduct which harms, threatens, or endangers the health or safety of any person.

(3) Attempted or actual damage to, theft of, or misuse of real or personal property of (a) the college or state, (b) any student or college officer, employee, or organization, or (c) any other person or organization lawfully present on college property; or possession of stolen property.

(4) Unauthorized possession or unauthorized use of college equipment and supplies, including, but not limited to, converting college equipment or supplies for personal gain or use without proper authority.

(5) Failure to comply with the directions of a college officer or employee who is acting in the legitimate performance of his/her duties, and/or failure to properly identify oneself to these persons when requested to do so.

(6) Participation in any activity which unreasonably disrupts the operations of the college or infringes on the rights of another member of the college community, or leads or incites another person to engage in such an activity.

(7) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons which can be used to inflict bodily harm or to damage real or personal property is prohibited on the college campus, at any other facilities leased or operated by the college, or at any activity under the administration or sponsorship of the college.

Exceptions to this policy are permitted when the weapon is used in conjunction with an approved college instructional program, is carried by duly constituted law enforcement officer, or is otherwise permitted by law

(8) Hazing: Any method of initiation into a student club or organization, or any pastime or amusement engaged in with respect to such a group or organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending the college as described in [RCW 28B.10.900](#).

(9) Initiation violation: Conduct associated with initiation into a student club or organization, or any pastime or amusement engaged in with respect to such a group or organization, not amounting to a violation of [RCW 28B.10.900](#). Conduct covered by this section may include embarrassment, ridicule, sleep deprivation, unprotected speech amounting to verbal abuse, or personal humiliation.

(10) Use, possession, delivering, selling or being under the influence of alcoholic beverages, except at sanctioned events approved by the college president or designee and in compliance with state law; or public intoxication.

(11) Use, possession, delivering, selling or being under the influence of legend drugs, including anabolic steroids, narcotic or any other controlled substance, except upon valid prescription by a licensed health care professional or practitioner.

(12) Obstruction of the free flow of pedestrian or vehicular movement on college premises or at a college activity.

(13) Conduct which is disorderly, lewd, or indecent, disturbing the peace, or assisting or encouraging another person to disturb the peace. Disorderly conduct includes but is not limited to: any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his or her prior knowledge or without his or her effective consent, when such a recording is likely to cause injury or distress. This includes surreptitiously capturing images of another person in a gym, locker room, or restroom.

(14) Discrimination on the basis of race, color, religion, creed, ancestry, national origin, gender, sexual orientation, mental, physical, sensory disability, age or veteran's status.

(15) Sexual harassment. This includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature where such behavior offends the recipient or a third party, causes discomfort or humiliation, unreasonably interferes with a person's work or educational performance, or creates an intimidating, offensive, or hostile work or learning environment.

(16) Stalking. Behavior or conduct either in person or through electronic communication in which a student willfully and repeatedly engages in a course of conduct directed at another person with the intent and/or reasonable effect of creating fear or emotional distress and where the college determines that such behavior or conduct serves no legitimate purpose.

(17) Smoking or other tobacco usage is not permitted within the perimeter of Clark College property. This includes all college sidewalks, parking lots, landscaped areas, recreational areas, and buildings on Clark College property. See Clark College Administrative Procedures 500.030 for complete Smoking/Tobacco Products policy.

(18) Theft or abuse of computer facilities or information technology resources; use of computing facilities and resources to send obscene, abusive, harassing, or threatening messages; or violation of Student Computing Resources Policy. It is the obligation of students to be aware of their responsibilities as outlined in the Student Computing Resources Policy ([http://www.clark.edu/student\\_services/computing\\_resources/policy.php](http://www.clark.edu/student_services/computing_resources/policy.php)).

(19) 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.

(20) Abuse or misuse of any of the procedures relating to the code of student conduct, including:

(a) Failure to obey the notice from the Committee on Student Conduct or college official to appear for a meeting or hearing as part of the student conduct system.

(b) Willful destruction, falsification, distortion, or misrepresentation of information before the Committee on Student Conduct or the student conduct officer.

(c) Disruption or interference with the orderly conduct of a Committee on Student Conduct proceeding.

(d) Filing fraudulent charges or initiating a student conduct proceeding in bad faith.

(e) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(f) Attempting to influence the impartiality of a member of the Committee on Student Conduct prior to or during the course of a Committee on Student Conduct proceeding.

(g) Harassment (verbal or physical) or intimidation of a member of the Committee on Student Conduct prior to, during, or after a student conduct code proceeding.

(h) Failure to comply with any term or condition of any disciplinary sanction(s) imposed under the standards of conduct for students.

(i) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

(21) Trespassing. Knowingly entering or remaining unlawfully in or on college premises or any portion thereof. Any person who has been given notice by a college official excluding him or

her from all or a portion of college premises is not licensed, invited, or otherwise privileged to enter or remain on the identified portion of college premises, unless given prior explicit written permission by a college official.

(22) Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(23) Violation of any federal, state, or local law, rule, or regulation.

(24) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

### **132N-121-062 Academic dishonesty.**

Acts of academic dishonesty include:

(1) Cheating, which includes using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course; an act of deceit by which a student attempts to misrepresent academic skills or knowledge; unauthorized or attempted unauthorized copying or collaboration; or acquiring, without permission, tests or other academic material belonging to a member of the college faculty or staff.

(2) Plagiarism, which includes using another person's ideas, words, or other work in an instructional course without properly crediting that person. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(3) Submitting information that is known to be false (while concealing that falsity).

(4) Forgery, alteration or misuse of any instrument of identification or any document or record used by the college.

(5) Tampering with an election conducted by or for students.

(6) Fabrication, which is the intentional misrepresentation, invention or counterfeiting of information in the course of an academic activity. Fabrication includes:

(a) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;

(b) Counterfeiting a record of internship or practicum experiences;

(c) Submitting a false excuse for absence or tardiness;

(d) Unauthorized multiple submission of the same work; sabotage of others' work.

(7) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

(8) Collusion. Facilitating dishonesty, failing to report known incidents of academic dishonesty; assisting another to commit an act of academic dishonesty, such as paying or bribing someone to acquire a test or assignment, or increase the score on a test or assignment; taking a test or doing an assignment for someone else; participating in obtaining or distributing any part of a test or any information about a test; or allowing someone to do these things for one's own benefit.

(9) Knowingly furnishing false information to any college official, faculty member, or office including but not limited to submission of fraudulent transcripts from other institutions.

(10) Acts of academic dishonesty will be reported by the faculty member to the vice president of student affairs' designated student conduct officer.

### **132N-121-065 Trespass.**

The vice president of student affairs or designee shall have the authority and power to:

- (1) Prohibit the entry, or withdraw the license or privilege of any person or group of persons to enter onto or remain in any college property or facility; or
- (2) Give notice against trespass by any manner provided by law, to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from, entering onto or remaining upon all or any portion of college property or a college facility; or
- (3) Order any person, persons, or group of persons to leave or vacate all or any portion of college property or a college facility.

Such power and authority may be exercised to halt any event which is deemed to be unreasonably disruptive of order or impedes the movement of persons or vehicles or which disrupts or threatens to disrupt the ingress and/or egress of persons from facilities owned and/or operated by the college. Any individual remaining on or reentering college property after receiving notice that his or her license or privilege to be on that property has been revoked shall be subject to disciplinary action and/or charges of criminal trespass.

### **132N-121-070 Disciplinary sanction.**

The following sanctions may be imposed by the student conduct officer on any student found to have violated the code of student conduct. In the case of minors, misconduct may be referred to parents or legal guardians pursuant to FERPA guidelines. More than one sanction may be imposed for any one violation.

(1) Warning. Notice to a student, either verbally or in writing, by the student conduct officer that the student has failed to satisfy the college's expectations regarding conduct. Such warnings will include a statement that continuation or repetition of the specific conduct involved or other misconduct may be cause for more serious disciplinary action. There shall be no appeal from a warning.

(2) Reprimand. Formal action censuring a student for violating the student code of conduct. Reprimands shall be made in writing to the student by the student conduct officer. A reprimand indicates to the student that continuing or repeating the specific conduct involved or other misconduct will result in more serious disciplinary action. There shall be no appeal from a reprimand.

(3) Disciplinary probation. Formal action placing conditions upon the student's continued attendance. Notice shall be in writing and shall specify the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Probation may be for a specific term or may extend to graduation or other termination of the student's enrollment in the college. A student on probation is not eligible to run for or hold an office in any student organization. Repetition of the conduct which resulted in probation or failure to complete conditions of probation during the probationary period, may be cause for suspension or other disciplinary action.

(4) Loss of privileges: Denial of specified privileges for a designated period of time. Violation of any conditions in the written notice of loss of privileges may be cause for further disciplinary action.

(5) Suspension. Temporary dismissal from the college and termination of student status. Notice shall be given in writing and specify the duration of the dismissal and any special conditions that must be met before readmission. Refund of tuition or fees for the quarter in which disciplinary action is taken shall be in accordance with the college's refund policy.

(6) Expulsion. Permanent termination of a student's status. Notice must be given in writing. The student may also be barred from college premises. There shall be no refund of tuition or fees for the quarter in which the action is taken but fees paid in advance for a subsequent quarter will be refunded.

(7) Restitution. Requirement of a student to compensate for damage or loss to college or other property, or perform a public service activity. Failure to make restitution within the time limits established by the student conduct officer will result in suspension for an indefinite period of time. A student may be reinstated upon payment or completion of the required service activity.

(8) Education. The college may require the student to complete an educational requirement directly related to the violation committed, at the student's expense.

(9) Revocation of admission or degree. Admission to or a degree awarded from the college may be revoked for fraud, misrepresentation, or other violation of standards of conduct for

students in obtaining the degree, or for other serious violations committed by a student prior to graduation.

(10) Withholding degree. The college may withhold awarding a degree otherwise earned until the completion of the process set forth in this chapter, including the completion of all sanctions imposed.

(11) No trespass order. A student may be restricted from college property based on his/her misconduct.

(12) Assessment. The student may be required to have an assessment at the student's expense, such as alcohol/drug or anger management, by a certified professional, and complete the recommended treatment. The student will sign all necessary releases to allow the college access to the assessment. Recommendations as part of an assessment may be included as required conditions of a disciplinary probation, suspension, or reinstatement after a period of suspension.

(13) Loss of recognition. A student organization's recognition may be withheld permanently or for a specific period of time. Loss of recognition is defined as withholding college services or administrative approval from a student organization. Services and approval to be withdrawn include intramural sports, information technology services, college facility use and rental, and involvement in organizational activities.

(14) Hold on transcript or registration. This is a temporary measure restricting release of a student's transcript or access to registration. Upon satisfactory completion of the conditions of the sanction, the hold is released.

(15) No contact order. A prohibition of direct or indirect physical, verbal, or written contact (to include electronic) with another individual or group.

(16) Other than college expulsion or revocation or withholding of a degree, disciplinary sanctions are not made part of the student's academic record, but are part of the student's disciplinary record.

(17) If a student's behavior is found to have been motivated by another's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, mental, physical, sensory disability, age or veteran's status, such finding is considered an aggravating factor in determining a sanction for such conduct.

(18) Violation of any term or condition of any disciplinary sanction constitutes a new violation and may subject the student to additional sanctions.

(19) A disciplinary sanction, except a warning, shall be imposed through written notice either personally delivered or sent to the student's last known address of record by regular mail certified mail. Each notice of disciplinary action shall state:

- (a) A reasonable description of the facts on which the action is based;
- (b) The provision(s) of the student conduct code found to have been violated;
- (c) The sanction(s) imposed; and
- (d) The student's right to appeal a disciplinary action, except for a warning or reprimand.

### **WAC 132N-121-080 Initial disciplinary proceedings.**

(1) Any member of the college community may file a written complaint alleging that a student has committed a violation of the code of student conduct with the office of the vice president of student affairs. The complaint should state specifically the alleged violation and summarize the supporting evidence. If the student conduct officer determines the complaint has merit, the student conduct officer shall initiate disciplinary proceedings. The student may be placed on suspension pending commencement of disciplinary action, pursuant to the conditions set forth in WAC 132N-121-150.

(2) A student accused of violating the code of student conduct shall be notified of an initial disciplinary proceeding and the opportunity to meet with the student conduct officer to resolve the case without a formal hearing. The student shall be provided with written notice including the specific complaint, the policy, procedure, or section of the code of student conduct allegedly violated, and the range of possible sanctions which might result from disciplinary proceedings. The student will be given seven days to respond. If the student fails to respond or fails to appear, the initial disciplinary hearing may be held in the student's absence and shall not preclude the student conduct officer from making a decision and imposing or recommending sanctions.

(3) After considering the evidence in the case, and interviewing the student, if the student has appeared at the scheduled meeting, and reviewing the case with any new information, the student conduct officer may take any of the following actions:

- (a) Terminate the proceedings and exonerate the student;
- (b) Dismiss the case after whatever intervention and advice is deemed appropriate;
- (c) Impose any of the disciplinary sanctions from WAC 132N-121-070.

### **123N-121-090 Appeals**

(1) A student may appeal any disciplinary sanction imposed by the student conduct officer, other than warning or reprimand, by filing a written request with the chair of the Committee on Student Conduct, within seven days from the date of receipt of the decision.

(2) The request should state clearly whether the student is requesting the appeal to be heard as a brief adjudicative proceeding informally by the chair of the Committee on Student Conduct or for the appeal to be conducted formally by the entire committee membership, in an adjudicative

proceeding according to RCW 34.05.410. Appeals from a suspension or expulsion from the college shall be heard in an adjudicative proceeding.

**(3) Appeals conducted as a brief adjudicative proceeding.**

(a) Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally in a brief adjudicative proceeding conducted in accordance with RCW 34.05.485. Brief adjudicative proceedings shall be conducted in any manner which will bring about a prompt, fair resolution of the matter. The chair of the Committee on Student Conduct shall serve as the sole presiding officer of the brief adjudicative proceeding. The presiding officer shall give each party an opportunity to be informed of the college's view on the matter and the student's view of the matter. No witnesses may appear to testify. Within ten days of the brief adjudicative proceeding, the chair shall render a written decision which will include a brief statement of the reasons for the decision. This shall be an initial order. If no further administrative review is requested, the initial order shall become the final order.

(b) Within twenty-one days after the initial order has either been personally delivered or sent to the student's last known address of record by regular mail, certified mail, he or she may petition for administrative review by the vice president of student affairs or designee. A copy of the petition must be served on all parties or their representatives at the time the petition is filed. The reviewing officer may be the vice president or an administrator who has not been involved in the action. The review shall be governed by RCW 34.05.491. The decision of the vice president of student affairs or designee is final and no further administrative review is available.

**(4) Appeals conducted as adjudicative proceedings by Committee on Student Conduct.** In all cases where the student is appealing suspension or expulsion from the college, the student shall be entitled to an adjudicative proceeding under WAC 132N-121-110 if he or she files a proper written application for such a proceeding. The vice president of student affairs shall be responsible for convening the Committee on Student Conduct, setting the time and place of the hearing, and providing notice of the hearing as prescribed in RCW 34.05.434.

(5) A decision of the Committee on Student Conduct or a sanction imposed by the student conduct officer may be appealed in writing to the president within ten days following receipt of the committee decision.

(a) Except as required to explain the basis of new information, an appeal to the president is limited to a review of the verbatim record of the committee hearing and supporting documents for one or more of the following purposes:

(i) To determine whether the Committee on Student Conduct hearing was conducted fairly in light of the charges, and whether information was presented in conformity with prescribed procedures giving the accused student a reasonable opportunity to prepare and to present a response to the allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice is evident.

(ii) To determine whether the decision is supported by the evidence.

(iii) To determine whether the sanctions imposed are appropriate for the violation which the student was found to have committed.

(iv) To consider new information, sufficient to alter a decision, or other relevant facts not disclosed in the original hearing because such information and/or facts were not known to the student appealing at the time of the Committee on Student Conduct hearing

(b) The president shall review the record within fifteen days of the notice of appeal and make one of the following determinations:

(i) Affirm the decision and uphold the sanctions; or

(ii) Reverse the decision; or

(iii) Affirm the decision and modify the sanctions imposed.

(c) The president shall provide a written conclusion to all parties within twenty days after completion of his or her review.

(d) If the appeal is upheld, the matter shall be returned to the Committee on Student Conduct to reopen the hearing to reconsider of the original determination and/or sanctions.

(e) If the appeal is not upheld, the president's decision shall be final.

#### **WAC 132N-121-100 Committee on Student Conduct.**

(1) The Committee on Student Conduct consists of five members. The committee shall provide a fair and impartial hearing and will make decisions on all disciplinary decisions appealed to it. The committee shall include:

(a) Two full-time students and two alternates appointed by the ASCC of Clark College vice-president of elections and appointments (one-year appointments);

(b) Two faculty members and two alternates appointed by the president or designee (two-year appointments, staggered terms);

(c) One member of the administration, but not the vice president of student affairs, and one alternate appointed by the president of the college (two-year appointment).

(2) Appointments to the committee will be made no later than November 1 of each academic year. Vacancies on the committee shall be filled as they arise.

(3) Hearings may be heard by a quorum of three members of the committee so long as a faculty member and one student are included on the hearing panel. If the case involves academic

dishonesty, at least two of the individuals hearing the case must be members of the faculty. The vice president of student affairs shall appoint the chair and that person will continue in office until he or she resigns or is recalled by the vice president of student affairs. The vice-president for student affairs may appoint a special presiding officer to the Committee on Student Conduct in complex cases or in any case in which the student is represented by legal counsel. Special presiding officers may participate in committee deliberations but shall not vote.

(4) Members of the Committee on Student Conduct shall not participate in any case in which they are a defendant, 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 for disqualification of a committee member pursuant to RCW 34.05.425(4).

### **WAC 132N-121-110 Hearing procedures before the Committee on Student Conduct.**

(1) An appeal before the Committee on Student Conduct will be conducted as an adjudicative proceeding in accordance with RCW 34.05.413 through 34.05.476. The Committee on Student Conduct shall commence the hearing within fifteen days after the written request has been received. The office of the vice president of student affairs will notify the parties of the time and place of the hearing. The time limit for scheduling the hearing may be extended at the discretion of the vice president of student affairs.

(2) The presiding officer shall be the chair of the Committee on Student Conduct. The presiding officer is responsible for:

(a) Regulating the course of the hearing in accordance with RCW 34.05.449 and applicable college rules;

(b) Taking whatever steps are necessary during the hearing to ensure that the process is conducted in a respectful and orderly manner; and

(c) Issuing and signing the written decision(s) of the committee.

(3) The presiding officer is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and forms of any discovery, the possibility of obtaining stipulations, admissions, settlement, and other procedural matters.

(4) All procedural questions are subject to the final decision of the presiding officer. If a challenge arises concerning the application of any rule or policy, the hearing will continue and the challenge may be submitted by the chair in writing to the vice president of student affairs, who will seek legal advice from an assistant attorney general.

(5) The student has a right to a fair and impartial hearing. However, the student's failure to answer the charges, appear at the hearing or cooperate in the hearing shall not preclude the Committee on Student Conduct from making its findings of facts, conclusions, and recommendations. This shall not limit the possibility of a default pursuant to RCW 34.05.440.

(6) Hearings shall be closed in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Sec. 1232g, unless the student waives this requirement in writing and requests to have the hearing open to the public. However, if education records or information from education records will be disclosed at the hearing, or more than one student is involved, the hearing will remain closed unless all students have consented to open the hearing. In hearings involving more than one accused student, the presiding officer may permit joint or separate hearings. If at any time during the hearing, a visitor disrupts the proceedings, the presiding officer may exclude that person from the hearing.

(7) The complainant, the student, and their respective advisors may attend those portions of the appeal hearing at which information is received, but may not attend the committee's deliberations. Admission of any other person to the hearing is at the discretion of the presiding officer.

(8) The student and complainant are entitled to be assisted by an advisor of their choosing, at their own expense. The complainant and student are responsible for presenting their own information, therefore, an advisor is not permitted to address the committee or participate directly in the hearing. An advisor may communicate only with the person they are advising. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing. Delays or continuances will not be allowed due to the scheduling conflicts of an advisor. If the student is the subject of a pending subsequent criminal matter arising out of the same circumstances, the student may be allowed to have an attorney serve as their advisor, at the student's own expense, to behave in the same manner as any other advisor.

(9) Formal rules of process, procedure, and/or technical rules of evidence such as are applied in criminal or civil cases, will not apply in student conduct proceedings.

(10) (a) The student is entitled to present evidence in his or her behalf and to cross-examine witnesses testifying on behalf of the college. The student is responsible for informing his or her witnesses of the time and place of the hearing.

(b) Direct examination, cross-examination, and rebuttal may be limited to the extent necessary for the full disclosure of all relevant facts and issues.

(c) The committee may receive sworn written testimony in lieu of oral testimony at the hearing.

(d) If not inconsistent with this subsection, the presiding officer may refer to the Washington Rules of Evidence as guidelines for evidentiary rulings in accordance with RCW 34.05.452.

(e) In determining the appropriate sanction that should be recommended, evidence of past misconduct that the presiding officer deems relevant may be considered.

(11) Members of the Committee on Student Conduct must avoid ex parte (one-sided) communications with any party involved in the hearing regarding any issue other than communications necessary to maintain an orderly procedural flow to the hearing.

(12) There will be a single verbatim record, such as a tape recording or transcript, of the information gathering portion of the hearing. Deliberations shall not be recorded. The record shall be the property of the college.

**WAC 132N-121-112 Decision by the Committee on Student Conduct and notification.**

(1) At the conclusion of the hearing and deliberations, the Committee on Student Conduct shall meet in closed session to consider all evidence presented and decide by majority vote whether the student has violated the code of student conduct, and if so, the committee determines and imposes the appropriate sanctions from WAC 132N-121-070.

(2) The burden of proof that guides the committee's decision is the preponderance of evidence, whether it is more likely than not that the student violated the code of student conduct.

(3) The committee's written decision shall include findings of fact and conclusions which inform the parties of the basis for the decision. The decision should also include information about the appeal process.

(4) The presiding officer notifies the student in writing, in person, by mail or electronic mail of the committee's decision. Notice is sent within ten days after the hearing is concluded. If the college is not in session, this period may be reasonably extended.

(5) The written decision of the committee shall become the final order, without further action, unless within ten days following receipt of the decision, the student files a written appeal with the college president.

**132N-121-120 Recordkeeping.**

(1) The record in an adjudicative proceeding shall consist of all documents as required by law and as specified in RCW 34.05.476.

(2) The office of the vice president of student affairs shall maintain records of student grievance and disciplinary proceedings for at least six years.

(3) The disciplinary record is confidential.

(4) Students may request a copy of their own disciplinary record at their own reasonable expense by making a written request to the vice president of student affairs. Personally identifiable student information is redacted to protect another student's privacy.

(5) Students may authorize release of their own disciplinary record to a third party in compliance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Sec. 1232g, by making a written request to the vice president of student affairs.

(6) The college may inform the complainant of the outcome of any disciplinary proceeding involving a crime of violence or non-forcible sex offense, as permitted by FERPA, 20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99.

(7) The college may not communicate a student's disciplinary record to any person or agency outside the college without the prior written consent of the student, except as required or permitted by law. Exceptions include, but are not limited to:

(a) The student's parents or legal guardians may review these records if the student is a minor or a dependent, if the student is a minor and disciplinary action involves the use or possession of alcohol or controlled substance, or in connection with a health or safety emergency regardless if the student is a dependent or a minor, as permitted by FERPA, 20 U.S. Sec. 1232g; 34 C.F.R. Part 99.

(b) To another educational institution, upon request, where the student seeks to, intends to, or has enrolled.

(c) Information concerning registered sex offenders.

### **132N-121-150 Summary suspension proceedings.**

(1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which the student might otherwise be eligible, during which an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer or designee may impose a summary suspension:

(a) In situations involving an immediate danger to the health, safety or welfare of any part of the college community or the public at large;

(b) To ensure the student's own physical safety and well-being; or

(c) If the student poses an ongoing threat of disruption to, or interference with, the operations of the college and the student's conduct prevents other students, employees, or members of the college community from completing their duties as employees or students.

(3) The student conduct officer or designee shall give the student oral or written notice of the reasons for the summary suspension, and of any possible additional disciplinary or corrective actions that may be taken. If oral notice is given, a written notification shall be personally served on the student, or sent to the student's last known address of record by regular or certified mail within two working days.

(3) The notification shall be entitled "notice of summary suspension proceedings" and shall include:

(a) The charges against the student including reference to the provisions of the student conduct code or the law allegedly violated;

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

(c) A notice against trespass that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the student shall be considered trespassing and subject to arrest for criminal trespass, if the student enters the college campus other than to meet with the student conduct officer or designee, or to attend the hearing.

(4) The hearing on the summary suspension shall be held as soon as practicable after the summary suspension. The hearing may be combined with an initial disciplinary proceeding in accordance with WAC 132N-121-080.

(5) The summary suspension does not replace the regular process, which shall proceed on the schedule described in this chapter, up to and through a hearing before the Committee on Student Conduct, if required.

(6) The student conduct officer or designee shall determine whether there is probable cause to believe that summary suspension is necessary and/or whether some other disciplinary action is appropriate.

(7) The student shall have the opportunity to explain why summary suspension is not necessary either through oral testimony or written statement. If the notice to appear for a summary suspension hearing has been personally delivered to the student or sent to the student's last known address of record by regular mail, certified mail and the student fails to appear at the time designated, the student conduct officer or designee may enforce the suspension, and shall send written notice of summary suspension to the student at the last known address of record on file.

(8) The student conduct officer or designee may continue the summary suspension and may impose any other disciplinary action that is appropriate, if he or she finds that there is probable cause to believe that:

(a) The student has committed one or more violations of the student conduct code;

(b) Such violation(s) constitute grounds for disciplinary action; and

(c) Summary suspension is necessary.

**(9) Notice of suspension.**

(a) If summary suspension is upheld and/or if the student is otherwise disciplined, the student will be provided with a written copy of the student conduct officer or designee's findings of

fact and conclusions that support the decision that summary suspension of the student should continue.

(b) The student suspended pursuant to the authority of this rule shall receive a copy of the “notice of suspension” either personally or sent to the student’s last known address of record by regular mail, certified mail, within three days following the conclusion of the hearing with the student conduct officer or designee.

(c) The "notice of suspension" shall inform the student of the duration of the summary suspension or nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the validity of the summary suspension can be appealed.

(10) The student conduct officer or designee shall provide copies of the notice of suspension to all persons or offices that may be bound by it.

### **132N-121-151 Appeals from summary suspension hearing.**

Any student aggrieved by an order issued at the summary suspension proceeding may appeal by filing a written request with the chair of the Committee on Student Conduct within ten days from the date on which the student was notified of the decision. However, no such appeal shall be entertained, unless:

(1) The student has first appeared through oral testimony or by a written statement at the student hearing in accordance with WAC 132N-121-150; and

(2) The appeal conforms to the standards set forth in WAC 132N-121-090.

### **WAC 132N-121-500**

#### **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 vice president of student affairs or designee who, in consultation with the faculty member, may set conditions for the student upon return to the class or activity.