**UPDATED PROVISIONS TO MODEL SUPPLEMENTAL TITLE IX STUDENT CONDUCT CODE**

**WAC 132\_-\_\_\_-\_\_\_ 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. § 106. To the extent these supplemental hearing procedures conflict with the *[College or University]*’s standard disciplinary procedures, WAC \_\_\_-\_\_\_-\_\_\_ through -\_\_\_, these supplemental procedures shall take precedence.*[College or University]* may, at its 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.

**WAC 132\_-\_\_\_-\_\_\_ 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:
4. Is asked or offered to prove someone other than the Respondent committed the alleged misconduct; or
5. Concerns specific incidents of prior sexual behavior between the Complainant and the Respondent, which are asked or offered on the issue of consent.
6. 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.
7. 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:
8. Spousal/domestic partner privilege;
9. Attorney-Client and attorney work product privileges;
10. Privileges applicable to members of the clergy and priests;
11. Privileges applicable to medical providers, mental health therapists, and counsellors;
12. Privileges applicable to sexual assault and domestic violence advocates; and
13. Other legal privileges identified in RCW 5.60.060.

**WAC 132\_-\_\_\_-\_\_\_ Appeals**

1. All Parties, including the *[student conduct officer]* in their capacity as a representative of the College, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the *[President’s Office]* within twenty-one (21) days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions of law in the initial order or dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or dismissal shall be deemed final.
2. Upon receiving a timely appeal, the *[President’s Office]* will serve a copy of the appeal on all parties, who will have ten (10) days from the date of service to submit written responses to *[the President’s Office]* addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, *[the President’s Office]* shall serve copies of the responses to the other parties.
3. Parties receiving a copy of the responses shall have five (5) days in which to submit a written reply addressing issues raised in the responses to the *[President’s Office].*
4. *[The President or their delegate]*, based on their review of Parties’ submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal if affirmed or denied, or if the disciplinary sanctions and conditions imposed in the Initial Order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.
5. The President’s Office shall serve the Final Decision on the parties simultaneously.
6. All administrative decisions reached through this process are and may be judicially appealed pursuant to applicable provisions of RCW 34.05, including, but not limited to, the timelines set forth in RCW 34.05.542. No decisions or recommendations arising from this disciplinary procedure will be subject to grievance pursuant to any Collective Bargaining Agreement.