

Implementing Board Policy [3.30.01](#)

Contact: Chief Title IX Officer

1.0 Purpose

Community Colleges of Spokane recognizes its responsibility to investigate, resolve, implement supportive and corrective measures, and monitor the educational environment and workplace to promptly and effectively stop, remediate, and prevent discrimination on the basis of sex, as required by Title IX of the Educational Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Reauthorization Act, and Washington State's Law Against Discrimination, and their implementing regulations. To this end, Community Colleges of Spokane has enacted Board Policy 3.30.01 and adopted the following Sex Discrimination Procedure for purposes of receiving allegations of Sex Discrimination arising within the College's educational programs and activities and workplace. Any individual found responsible for engaging in Sex Discrimination in violation of College policy may be subject to disciplinary action up to and including dismissal from the College's educational programs and activities.

Application of this Complaint Procedure is restricted to allegations of Sex Discrimination, which includes, but is not limited to, allegations of Sex-based Harassment, as those terms are defined within this procedure. Nothing in this procedure limits or otherwise restricts the College's ability to investigate alleged misconduct and pursue discipline based on violations of other federal, state, and local laws, their implementing regulations, and other College policies prohibiting gender discrimination through processes set forth in the College's code of student conduct.

2.0 Authority

2.1 The Community Colleges of Spokane board of trustees, acting pursuant to [RCW 28B.50.140 \(14\)](#), delegates to the president of the college the authority to administer student disciplinary action. The president is authorized to delegate or reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary. Administration of the disciplinary procedures is the responsibility of the vice president of Student Affairs/Student Services or their designee. Except in cases involving allegations of sex discrimination, including sex-based harassment, the student conduct officer, or delegate, shall serve as the principal investigator and administrator for alleged violations of this code.

3.0 Statement of Jurisdiction

- 3.1 The student conduct code shall apply to conduct by students or student groups that occurs:
- 3.1.1 On college premises;
 - 3.1.2 At or in connection with college programs or activities; or
 - 3.1.3 Off college premises, if in the judgment of the college, the conduct has an adverse impact on the college community, the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.
- 3.2 Jurisdiction extends to locations in which students are engaged in college programs or activities including, but not limited to, college-sponsored housing, foreign or domestic travel, activities funded by the students, student government, student clubs or organizations, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities.

- 3.3 Students are responsible for their conduct from the time they gain admission to the college through the last day of enrollment or award of any degree or certificate, 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 enrollment.
- 3.4 These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.
- 3.5 The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off-campus.
- 3.6 **Related Information:** In addition to initiating disciplinary 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.

4.0 Definitions

The following definitions shall apply for purpose of this student conduct code:

- 4.1 **Business Day** means a weekday, excluding weekends and college holidays.
- 4.2 **College premises** shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.
- 4.3 **Complainant** means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:
 - 4.3.1 a student or employee; or
 - 4.3.2 a person other than a student or employee who was participating or attempting to participate in the College's education program or activity at the time of the alleged discrimination.
- 4.4 **Disciplinary action** is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code. A written or verbal warning is not disciplinary action.
- 4.5 **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.
- 4.6 **Pregnancy or Related Conditions** means: (a) pregnancy, childbirth, termination of pregnancy, or lactation; (b) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (c) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- 4.7 **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.

- 4.8 **Program or Programs and Activities** means all operations of the College.
- 4.9 **Relevant** means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- 4.10 **Remedies** means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.
- 4.11 **Respondent** is a student who is alleged to have violated the student conduct code.
- 4.12 **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 that the document is emailed and deposited in the mail, whichever is first.
- 4.13 **Student Conduct Officer** is a college administrator designated by the president to be responsible for implementing and enforcing the student conduct code.
- 4.14 **Student employee** means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation, including but not limited to sex-based harassment, occurred while the individual was performing employment-related work.
- 4.15 **Student group** is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.
- 4.16 **Supportive measures**, measures means reasonably available, individualized and appropriate, non-punitive and non-disciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:
- 4.16.1 Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or
- 4.16.2 Supportive measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.
- 4.17 **Title IX Coordinator** is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

5.0 Prohibited Student Conduct

The college may impose disciplinary sanctions against a student or a college sponsored student organization, athletic team or living group, 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:

- 5.1 **Retaliation.** Harming, threatening, intimidating, coercing, or other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies.
- 5.2 **Sex Discrimination.** The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than *de minimis* harm to an individual by treating them different from a similarly-situated individual on the basis of: sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than *de minimis* (insignificant) harm on the basis of sex.
 - 5.2.1 **Sex-Based Harassment.** "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:
 - 5.2.1.1 **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
 - 5.2.1.2 **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - 5.2.1.2.1 The degree to which the conduct affected the complainant's ability to access the college's education program or activity;
 - 5.2.1.2.2 The type, frequency, and duration of the conduct;
 - 5.2.1.2.3 The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - 5.2.1.2.4 The location of the conduct and the context in which the conduct occurred; and
 - 5.2.1.2.5 Other sex-based harassment in the college's education program or activity.
 - 5.2.1.3 **Sexual Violence.** "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

- 5.2.1.3.1 **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, 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.
- 5.2.1.3.2 **Nonconsensual sexual contact (Fondling)** is 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.
- 5.2.1.3.3 **Incest** is 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 (18).
- 5.2.1.3.4 **Statutory Rape (Rape of a Child)** is non-forcible sexual intercourse with a person who is under the statutory age of consent.
- 5.2.1.3.5 **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, 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 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.
- 5.2.1.3.6 **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: (a) The length of the relationship; (b) The type of relationship; and (c) The frequency of interaction between the persons involved in the relationship.
- 5.2.1.3.7 **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

- 5.2.2 **Consent.** For purposes of this code “consent” means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.
- 5.2.2.1 Each party has the responsibility to make certain that the other has consented before engaging in the activity.
- 5.2.2.2 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.
- 5.2.2.2.1 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.
- 5.2.2.2.2 Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.
- 5.2.3 **Title IX Retaliation,** means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

6.0 Corrective Action, Disciplinary Sanctions, Terms & Conditions

- 6.1 One or more of the following corrective actions or disciplinary sanctions may be imposed upon a student or upon college sponsored student organizations, athletic teams, or living groups found responsible for violating the student conduct code.
- 6.1.1 **Warning.** A verbal or written statement to a student that there is a violation and that continued violation may be cause for disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.
- 6.1.2 **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.
- 6.1.3 **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.

- 6.1.4 **Disciplinary suspension.** Dismissal from the college and from student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the suspension is imposed.
- 6.1.5 **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the dismissal is imposed.
- 6.2 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:
 - 6.2.1 **Education.** Participation in or successful completion of an educational assignment designed to create an awareness of the student's misconduct.
 - 6.2.2 **Loss of privileges.** Denial of specified privileges for a designated period of time.
 - 6.2.3 **Not in Good Standing.** A student deemed "not in good standing" with the college shall be subject to the following restrictions:
 - 6.2.3.1 Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.
 - 6.2.3.2 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.
 - 6.2.4 **No contact directive.** 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 facility.
 - 6.2.5 **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.
 - 6.2.6 **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.
 - 6.2.7 **Trespass or restriction.** A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.
 - 6.2.8 More than one of the disciplinary terms and conditions listed above may be imposed for any single violation.
- 6.3 If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

7.0 Initiation of Disciplinary Action

- 7.1 Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.
- 7.2 **Sex discrimination, including sex-based harassment.** The college's Title IX Coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.
- 7.3 Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.
- 7.4 If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.
 - 7.4.1 Informal dispute resolution shall not be used to resolve sex-based harassment complaints without written permission from both the complainant and the respondent.
 - 7.4.2 If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.
- 7.5 If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.
- 7.6 Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.
- 7.7 All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.
- 7.8 The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing him or her 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.
- 7.9 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.
- 7.10 Within ten (10) calendar 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. This period may be extended at the sole discretion of the student conduct officer,

if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

- 7.11 The student conduct officer may take any of the following disciplinary actions:
 - 7.11.1 Exonerate the respondent and terminate the proceedings.
 - 7.11.2 Impose a disciplinary sanction(s), with or without conditions, as described in WAC 132Q-10-400; or
 - 7.11.3 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.
- 7.12 In cases involving allegations of sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX Coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five (5) business days of receiving the investigation report, serve respondent, complainant, and the Title IX Coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.
 - 7.12.1 The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.
 - 7.12.2 The complainant and respondent shall have twenty-one (21) calendar days from the date of the written recommendation to request a hearing before a student conduct committee.
 - 7.12.3 The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.
 - 7.12.4 The student conduct officer shall promptly notify the other party of the request.
 - 7.12.5 In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:
 - 7.12.5.1 The college is unable to identify respondent after taking reasonable steps to do so;
 - 7.12.5.2 Respondent is not participating in the college's educational programs or activities;
 - 7.12.5.3 The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX Coordinator has declined to initiate their own complaint;
 - 7.12.5.4 The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or
 - 7.12.5.5 The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.
 - 7.12.6 In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be

dismissed.

- 7.12.7 If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of twenty-one (21) calendar days from the date of the written recommendation.
- 7.12.8 Upon receipt of the student conduct officer's written recommendation, the Title IX Coordinator or their designee shall review all supportive measures and, within five (5) business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.
- 7.12.9 If the respondent is found responsible for engaging in sex discrimination, the Title IX Coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

8.0 Hearings

- 8.1 The complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:
 - 8.1.1 **Notice.** The college must provide a notice that includes all information required in paragraph 2 of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.
 - 8.1.2 **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.
 - 8.1.3 **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in paragraph 8.2.2 of this section.
 - 8.1.4 **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.
 - 8.1.5 **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.
- 8.2 In cases involving allegations of sex-based harassment, the following additional procedures apply:
 - 8.2.1 **Notice.** In addition to all information required in paragraph 2 of this section, the notice must also inform the parties that: (a) the respondent is presumed not responsible for the alleged sex-based harassment; (b) that the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker; (c) that they may have an advisor of their choice, who may be an attorney, to assist them during the hearing; and (d) they are entitled to an equal opportunity to access relevant and not otherwise

impermissible evidence in advance of the hearing; and (e) the student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.

- 8.2.2 **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the Notice of Hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.
- 8.2.3 **Advisors.** The college shall provide an advisor to the respondent and any complainant if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.
- 8.2.4 **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.
- 8.2.5 **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.
- 8.2.6 **Separate locations.** The chair may, or upon the request of any party, must, conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.
- 8.2.7 **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.
- 8.3 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](#).
- 8.4 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 ensure 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](#).
- 8.5 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.
- 8.6 The student conduct officer (unless represented by an Assistant Attorney General) shall present the college's case.

- 8.7 All testimony shall be given under oath or affirmation. Except as otherwise provided in this section, evidence shall be admitted or excluded in accordance with [RCW 34.05.452](#).
- 8.8 The complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.
- 8.8.1 Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.
- 8.8.2 The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.
- 8.8.3 The chair shall exclude, and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes but is not limited to information protected by the following: (a) spousal/domestic partner privilege; (b) attorney-client communications and attorney work product privilege; (c) clergy privileges; (d) medical or mental health providers and counselor privileges; (e) sexual assault and domestic violence advocate privileges; and (f) other legal privileges set forth in [RCW 5.60.060](#) or federal law.
- 8.8.4 The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
- 8.8.5 The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

9.0 Appeals

- 9.1 Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the appropriate vice president's office (appeal authority) within twenty-one (21) calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.
- 9.1.1 For appeals coming from Spokane Community College, the vice president of student affairs at Spokane Falls Community College will process the appeal as the appeal authority. For appeals coming from Spokane Falls Community College, the vice president of student services at Spokane Community College will process the appeal as the appeal authority.

- 9.2 The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to: (a) procedural irregularity that would change the outcome; (b) new evidence that would change the outcome and that was not reasonably available when the initial decision was made; and (c) the investigator, decisionmaker, or Title IX Coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.
- 9.3 Upon receiving a timely appeal, the appeal authority will promptly serve a copy of the appeal on all non-appealing parties, who will have ten (10) business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.
- 9.4 If necessary to aid review, the appeal authority may ask for additional briefing from the parties on issues raised on appeal. The appeal authority'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 appeal.
- 9.5 The appeal authority shall serve a written decision on all parties and their attorneys, if any, within twenty (20) calendar days after receipt of the appeal. This decision shall be final and subject to judicial review pursuant to [Chapter 34.05 RCW, Part V](#).
- 9.6 In cases involving allegations of sex-based harassment, the appeal decision must be served simultaneously on the complainant, respondent, and Title IX Coordinator.
- 9.7 The appeal authority shall not engage in an ex parte communication with any of the parties regarding an appeal.