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**COURT OF APPEALS OF THE STATE OF WASHINGTON
Division III**

Court of Appeals No. 365565

In re:

DANIEL NELSON,

Plaintiff/Appellant,

and

SPOKANE COMMUNITY COLLEGE,

Defendant/Respondent.

APPELLANT'S OPENING BRIEF

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I. SUMMARY OF ARGUMENT

Spokane Community College violated statutory and constitutional due process when it permitted a teacher to accuse a disabled student of plagiarizing his homework answers on a chart/worksheet, to investigate him herself, to find him guilty, and to unilaterally punish him with unauthorized sanctions including, a suspension from class, the assignment of a failing grade in the course, and the arrangement of his dismissal from the nursing program in less than a week, without any procedural protections required by law.

II. ASSIGNMENTS OF ERROR

1. Spokane Community College erred when it entered disciplinary sanctions against a student for violations of the WAC 132Q-10 without adhering to its own rules and regulations as published in WAC 132Q-10.
2. Spokane Community College erred when it adopted/enforced the Nursing Program's additional sanctions and alternative procedures in violation of WAC 132Q-10.
3. Spokane Community College erred when it entered disciplinary sanctions against a student in violation of the Administrative Procedures Act.
4. Spokane Community College erred when it declined to engage in the disciplinary processes contained in WAC 132Q-10 and required by the Administrative Procedures Act.
5. Spokane Community College erred when it entered disciplinary sanctions against a student without providing due process.
6. Spokane Community College erred when its Student Conduct Officer deferred his judgment and ceded his authority to an unqualified faculty member in the Nursing Department by adopting/ratifying Marty Sells' unlawful decision-making process.
7. Spokane Community College erred when it entered disciplinary sanctions against Daniel Nelson.
8. Spokane Community College erred when it dismissed Daniel Nelson from the Nursing Program.

III. ISSUES PRESENTED

- A. Was Spokane Community College's action valid under the Administrative Procedures Act?
- B. Did Spokane Community College violate Mr. Nelson's constitutional rights when it entered disciplinary sanctions without providing due process?
- C. Is Mr. Nelson entitled to an award of fees on appeal?

IV. STATEMENT OF THE CASE

Daniel Nelson enrolled as a student in Spokane Community College (SCC) and entered the Nursing Program. Mr. Nelson has a disability and had applied for and received "reasonable accommodations" pursuant to the Americans with Disabilities Act, which included being permitted to record classes and to receive longer time periods to complete tests. (CP 51-56; 337-342.)

In 2017, Mr. Nelson failed a course taught by Marty Sells and was forced to retake it. (CP 35, 321.) Through that experience, he came to believe that Ms. Sells personally disliked him and was committed to his failure as a student. *Id.* Nevertheless, in the winter of 2018, approximately six months before Mr. Nelson was scheduled to graduate, he enrolled in *NURS 200: Care of the Developing Family Theory Content*, which was taught by Ms. Sells. *Id.* This course was required for Mr. Nelson's degree, and there was no alternative instructor available. *Id.* The course began on January 8, 2018. *Id.*

Ms. Sells then immediately accused Mr. Nelson of plagiarism, investigated him, found him guilty, suspended him from class (which prevented him from

recording the class pursuant to his reasonable accommodations under the ADA), failed him from her course, and solicited and secured support from multiple unidentified Nursing Program faculty members to permanently dismiss Mr. Nelson from the Nursing Program – all within approximately three and a half days. (CP 29-31, 59-61, 315-316, 345-347.) As a result, Mr. Nelson received none of the procedural protections required by WAC 132Q-10 or the Administrative Procedures Act (APA).

At the time he was expelled, Mr. Nelson was a week and a half away from sitting for his LPN license exam. (CP 54, 340.)

These events form the basis of Mr. Nelson’s appeal. The facts of this case are best understood in the context of the policies that govern student conduct for nursing students at SCC.

GOVERNING STUDENT CONDUCT POLICIES

Students enrolled in *NURS 200* were subject to policies contained in multiple publications, including: the CCS Student Code of Conduct (WAC 132Q-10), the SCC College Catalog, the Nursing Student Handbook, and the *NURS 200* course syllabus.

CCS Code of Conduct (WAC 132Q-10): This document is attached as *Appendix 1* and is contained in WAC 132Q-10. WAC 132Q-10 “constitutes the Community Colleges of Spokane standards of conduct for students” or

“CCS Student Code of Conduct.”¹ This chapter represents a “full understanding of [students’] rights and responsibilities.”² “Sanctions for violations of the standards of conduct for students **will be administered under this chapter.**” *Id.* Standards of conduct governing student academic dishonesty are contained in WAC 132Q-10-210. Violations of any department policy is addressed in WAC 132Q-10-224.

Any student found to have violated the code of conduct is subject to the disciplinary process outlined by WAC 132Q-10.³ A student guilty of misconduct is subject to the sanctions listed in WAC 132Q-10-400. *Id.* Sanctions do not include a failing grade in a course or a class suspension.⁴ In limited circumstances, the Student Conduct Officer may impose an interim suspension, but that did not occur here. *Id.* With two limited exceptions, disciplinary sanctions are not made part of a student’s academic record.⁵

The SCC College Catalog: This document is attached as *Appendix 2*. SCC is a member of the Community Colleges of Spokane (“CCS”), and as an individual entity, its website provides a link to WAC 132Q-10 and indicates that “[v]iolations of the Student Code of Conduct shall be cause for disciplinary action,” and notes that “[d]isciplinary proceedings shall be conducted in accordance with WAC 132Q-10”).

¹ WAC 132Q-10-101(4) and (5).

² WAC 132Q-10-101(4); emphasis added.

³ WAC 132Q-10-200.

⁴ WAC 132Q-10-400.

⁵ WAC 132Q-10-400(4).

SCC also publishes a student information handout entitled “Addressing Allegations of Student Misconduct and Your Rights and Responsibilities.” (CP 200.) The handout indicates that common sanctions for first-time offenses include: “a) required attendance at an educational program pertinent to the misconduct, b) a written statement on the misconduct and its impact on the student’s academic and professional career or the larger SCC community, and c) signing an agreement regarding future behavioral expectations.” *Id.*

The Nursing Student Handbook: The relevant portion of this document is attached as *Appendix 3*. The Nursing Program at SCC publishes its own policies in the Nursing Student Handbook. (CP 201-302, 487-588.) Section 4.4 of the Nursing Student Handbook is entitled “*Academic Integrity*,” and the only paragraphs in that section are:

Academic integrity is taken very seriously in the SCC Nursing Program. Students may not copy or distribute any intellectual property of the course instructor. This includes but is not limited to: power point presentations, handouts and assignments. In order to maintain integrity of intellectual property, audio and video recording and still photography are not allowed in class.

Students are expected to review and comply with WAC 132Q-10 “Standards of Conduct for Students” and all associated WAC sections. Plagiarism, cheating, and any other violations of the Standards of Conduct for students will be reported to the SCC Student Conduct Officer.

Sanctions for academic integrity violations may include receiving a failing grade for the assignment or examination, or possibly a failing grade for the course. In some cases, the violation may also lead to the student’s dismissal from the Nursing program and/or the college.

(CP 218-219, 504-505.) Section 4.4 provides no authority for its addition of sanctions that are not authorized by WAC 132Q-10-400.

Section 4.3 of the Nursing Student Handbook is entitled “*Student Conduct Expectations*,” it indicates that “all code of conduct information can be found on the CCS website.” (CP 217, 503; emphasis added.) It also indicates that students enrolled in the Nursing Program are expected to “[f]ollow all policies outlined in the Nursing Student Handbook and SCC College Catalog.” (CP 217, 503.) Section 4.3 also indicates that “any dishonesty, cheating, or falsifying documents” are violations considered “just cause for **immediate suspension**.” (CP 218, 504.) Section 4.3 does not identify the individual with the authority to determine whether such a violation occurred, nor does it indicate how such a determination is reached. This section also does not identify any portion of WAC 132Q-10 that permits ‘immediate suspension’ as an available sanction or governs the process of issuing such a sanction.

Section 4.5 of the Nursing Student Handbook is entitled “*Dismissal Policy*.” (CP 219, 505.) It states that “[c]ourse failure results when the student fails to achieve all of the behaviors on the clinical evaluation tool, when the student has unsatisfactory performance in the laboratory learning objectives, or when the student does not have a passing grade in the theory portion of the course (78% or 2.0 GPA).” (CP 219, 505.) Section 4.5 indicates that a maximum of one course may be repeated in the Nursing Program; receiving less than a 2.0 in a second course results in dismissal. (CP 219, 505.)

Section 4.5 then goes on to state that “[i]n instances where a student is dismissed due to behavior considered ‘*Just Cause for Immediate Suspension and Dismissal*’ as identified in each clinical evaluation tool, the faculty will determine, on a case-by-case basis, whether the dismissal is permanent with no option to return to the nursing program.” (CP 219, 505.) Section 4.5 does not reference any portion of WAC 132Q-10 that permits immediate suspension or dismissal as an available sanction for misconduct nor does it identify any portion of WAC 132Q-10 that permits *faculty* to independently investigate, adjudicate, and punish students by entering sanctions for misconduct.

The Course Syllabus Academic Integrity Policy for *NURS 200*: This document is attached as *Appendix 4*. This policy is identical to Section 4.4 of the Nursing Student’s Handbook. (CP 305, 591.)

TIMELINE OF EVENTS

January 8, 2018: *NURS 200* began. (CP 35, 321.)

January 23, 2018: Mr. Nelson turned in the first three assignments for the course and received 10/10 points on each of them. (CP 73, 360.) He also took a terminology quiz and received 19/20 points. (CP 74, 361.)

January 28, 2018: Mr. Nelson turned in a ‘Medication Worksheet’ as a homework assignment and received 10/10 available points. (CP 74, 361.)

Ms. Sells reported that while grading this assignment “it came to my attention that 2 students turned in basically identical homework assignments.” (CP 30, 316.) One of those two students was Mr. Nelson. *Id.*

January 29, 2018: Ms. Sells asked Mr. Nelson to meet with her in her office at the end of class. (CP 59, 345.) He arrived with Ms. Doe,⁶ and Ms. Sells informed the students that they could not both attend the meeting. *Id.*

Ms. Sells then held a meeting with Mr. Nelson and the Associate Dean of Nursing. (CP 30, 316.) In response to questioning, Mr. Nelson explained that he and Ms. Doe had worked together on the assignment, and that he had read from the book while Ms. Doe typed. *Id.* Ms. Sells reported that she informed Mr. Nelson in that meeting that the chart assignment was not noted as a group/shared assignment and that “2 students turning in the exact same work and representing it as their own was plagiarism and a violation of the course, program, and college academic integrity policies.” *Id.* Mr. Nelson was informed that he would be suspended from class for one day (Tuesday, January 30, 2018), and that he would receive zero credit for the assignment. *Id.*

Ms. Sells indicated in her notes that Ms. Doe returned after her meeting and informed Ms. Sells that she had lied in their previous meeting, and that she and Mr. Nelson had not worked on the assignment together. *Id.* She asserted that Mr. Nelson had verbally requested that she email him her complete assignment, which she did. *Id.*

January 30, 2018: Mr. Nelson received a grade for the midterm quiz of 16/20 available points. (CP 75, 362.)

⁶ The student with whom Mr. Nelson collaborated is referenced in this brief as “Ms. Doe.”

February 1, 2018: Ms. Sells met with the Associate Dean and Mr. Nelson. (CP 30, 316.) In that meeting, Mr. Nelson was informed that the “nursing faculty was advised of the situation” and had been “involved in the determination” to escalate his punishment to “a failing grade in the course, resulting in failure in the nursing program.” *Id.* Ms. Sells stated: “This was based on the violation of the course and program Academic Integrity policy.” (*Id.*; emphasis added; see also, CP 60, 346.) Ms. Sells noted that Mr. Nelson was provided with a copy of WAC 132Q-10-210. (CP 61, 347.)

Ms. Sells’ statement is confirmed by the “Course Failure/Withdrawal Form.” (CP 31, 317.) No information about Mr. Nelson’s academic performance is provided on the form; instead, Mr. Nelson’s failure is entirely based on a “violation of course/program academic integrity policy.” *Id.*

Nursing Division
Course Failure/Withdrawal Form

Student Name: Daniel Nelson Student ID # _____
 Course failed / withdrawn from: Course number N200 Course term number _____
 Course Name: Site of the Family Semester/Year: Winter 2018

Withdrawal:
 Course grade at time of withdrawal (percentage/GPA) _____

Failure: Violation of course/program academic integrity policy

Theory: _____ Failure to achieve 75% AVERAGE
 Final score (N): _____

Laboratory:
 Excessive absences
 Failure to meet lab objectives
 Safety concerns

Clinical:
 Excessive absences
 Failure to meet lab objectives
 Safety concerns

Other: _____

Second failure cannot return to program.

Faculty Signature: [Signature] Student Signature: Refused to sign -
 Dean Signature: [Signature] Date: 2-1-18 but agreed that
 Registrar copy sent Student copy received he would not
continue classes

Nursing division failure/withdrawal form revised 08/13

Later writings by Ms. Sells confirm that she independently and unilaterally investigated the matter herself (CP 59, 345; “[o]n Monday, 1/29/18 I advised the Associate Dean that I would be doing an investigation with two students for potential plagiarism...”), and that she independently and unilaterally interpreted WAC 132Q-10 and made a finding of plagiarism (CP 60, 346; “When I determined that plagiarism had occurred and using the criteria spelled out in the course syllabus, SCC Nursing Student handbook, and WAC 132Q-10-210 Academic Dishonesty and ethical violations I chose to give Mr. Nelson a failing grade for the course”). (CP 60, 346.) Ms. Sells alleged that “nursing faculty was advised of the situation and was involved in the determination of support to give the student a failing grade in the course, resulting in failure in the nursing program,” explaining that: “[t]his is a way to make sure that all facts are considered and reviewed by more than the grade assigning faculty member.” *Id.* Ms. Sells did not identify which faculty members were involved, what they were told and when, or what the responses were or how they were documented. She confirmed: “the decision was made by me and was based on the violation of the course and program Academic Integrity policy.” *Id.*

Ms. Sells reports that Ms. Doe later admitted to violating WAC 132Q-10 and to having been dishonest when previously questioned about it; inexplicably, however, the record indicates that Ms. Doe did not receive a suspension or disciplinary sanctions as severe as Mr. Nelson’s. (CP 54, 340.)

February 2, 2018: Only *after* she had sanctioned Mr. Nelson and arranged for his dismissal from the Nursing Program did Ms. Sells initiate the complaint procedure required by WAC 132Q-10 by filing a ‘Student Conduct Incident Report’ notifying the SCC Student Conduct Officer, Assistant Dean Connan Campbell, of her allegation against Mr. Nelson. (CP 29-30, 315-316)

February 4, 2018: Mr. Nelson’s attorney sent a letter to SCC indicating that Mr. Nelson would be represented by counsel with respect to any and all disputes related to his dismissal. (CP 32, 318.)

February 8, 2018: Student Conduct Officer Campbell wrote a letter to Mr. Nelson indicating that “officials responsible for addressing concerns about student conduct at Spokane Community College had received an incident report that may involve you and may require your attention.” (CP 45, 331.) The letter indicated that an “Information Meeting” was scheduled for February 16, 2018, but, an “IMPORTANT NOTE” was included that stated: “Given the nature of this alleged violation, academic dishonesty, and information we have received that this matter involves receiving a grade, no further action will be taken at this time.” *Id.* Mr. Nelson was then, *for the very first time*, provided with a written summary of the allegation against him, which was summarized merely as “academic dishonesty” in violation of WAC 132Q-10-210, without any further description. (CP 46, 332.)

In that document, Mr. Nelson was provided information instructing him how to “appeal the grade decision of the faculty member,” which involved reviewing the grade appeals and Student Concerns Process. (CP 45, 331.)

February 9, 2018: Mr. Nelson served his written “Appeal of Disciplinary Action.” (CP 47, 333.) In that document, Mr. Nelson complained that SCC had violated prescribed procedure by failing to provide him with written notice of the complaint against him, by denying him the right to bring an advisor to assist him during the disciplinary process, and by failing to grant him a formal disciplinary hearing. (CP 33-34, 319-330.) He also asserted that SCC had deprived him of due process. *Id.*

March 15, 2018: Mr. Nelson’s attorney wrote a letter to the Vice President of Student Services for SCC, Dr. Glen Cosby: “This letter is also our formal request for a disciplinary hearing for [Mr. Nelson] for the alleged student conduct violations.” (CP 58, 344.)

April 5, 2018: Mr. Nelson met with Jenni Martin, the Vice President of Instruction, to discuss Mr. Nelson’s course failure of *NURS 200* pursuant to the Student Concerns Process, which governs grades. (CP 141, 427.)

April 12, 2018: Vice President Martin sent a letter to Mr. Nelson confirming that his course failure of *NURS 200* was *not* performance-based but had rather been entered for “violation of the Academic Integrity policy.” *Id.* Vice President Martin indicated that she had reviewed the *NURS 200* syllabus, the documentation of the two submitted assignments, and a copy of the Nursing

Student Handbook, and that she had spoken to the Associated Dean of Nursing and reviewed the faculty response and concluded that she would uphold the disciplinary sanction of a class failure. *Id.*

April 25, 2018: Mr. Nelson’s attorney sent a letter addressed to Dr. Cosby and Ms. Martin indicating that the “plagiarism and related expulsion issues” required resolution. (CP 145, 431.)

April 30, 2018: Dr. Cosby and Ms. Martin replied by letter to Mr. Nelson’s attorney. (CP 146, 432.) They explained that “no sanction was imposed by the student conduct officer as the matter was dealt with as a violation of the academic integrity policy of the Nursing Program.” *Id.* They indicated that “the sanction of a failing grade in the course was appealed by Mr. Nelson through the appropriate means, the grade appeal process.” *Id.* They confirmed that “Vice President Martin’s letter of April 12 was the final resolution of that matter. *Id.* They concluded that: “Mr. Nelson has thus received due process in accordance with CCS policy and procedure,” and they indicated that they were “unaware of any process currently outstanding with regard to Mr. Nelson’s expulsion/plagiarism issue.” *Id.*

May 17, 2018: In response to further demands for a hearing made by Mr. Nelson’s attorney, SCC sent a letter to Mr. Nelson’s attorney pursuant to RCW 34.05.416, indicating that it declined to conduct an adjudicative proceeding. (CP 4, 27, 313.) SCC indicated its belief that the decision to award Mr. Nelson a failing grade in *NURS 200* was an “academic decision” and therefore outside

the scope of WAC 132Q-10 and the APA. *Id.* SCC relied on RCW 34.05.010(16)(iv) for this statement. *Id.*

SCC then indicated that an adjudicative proceeding is inapplicable because “there is no student conduct decision to appeal,” because “no sanction was imposed by the Student Conduct Officer as the matter was dealt with as a violation of the Academic Integrity Policy of the Nursing Program.” (CP 4-5, 27-28, 313-314.)

June 15, 2018: Mr. Nelson filed his *Petition for Review* with the Spokane Superior Court. (CP 1-3.) In that document, Mr. Nelson indicated that he was entitled to relief because “Spokane Community College (SCC) denied Petitioner a hearing on a student conduct violation (plagiarism),” indicating that “[t]he sanction issued by the school had the practical effect of expelling Petitioner from the nursing program.” *Id.* He requested that the case be remanded back to SCC with instructions to conduct a full hearing on the matter, that he be awarded costs and any other relief the court deemed proper. *Id.*

On December 21, 2018, the Spokane Superior Court denied Mr. Nelson’s appeal. (CP 625.) On January 10, 2019, Mr. Nelson filed his Notice of Appeal to this Court. (CP 626.)

V. ARGUMENT

A. SCC's order is invalid under the APA, and Mr. Nelson is entitled to relief on appeal.

STANDARD OF REVIEW: “The Administrative Procedure Act (APA), chapter 34.05 RCW, guides an appellate court’s review of an agency order.” *Raven v. Department of Social and Health Services*, 177 Wn.2d 804, 816, 306 P.3d 920 (2013).

“The appellate court reviews de novo an agency’s conclusions of law and its application of the law to the facts.” *Raven*, 177 Wn.2d at 817 (additional citations omitted).

In reviewing a university’s administrative action, this Court sits in the same position as the superior court. *Alpha Kappa Lambda Fraternity v. Wash. State Univ.*, 152 Wn.App. 401, 413, 216 P.3d 451 (2009). Thus, this Court reviews the administrative record rather than the superior court’s findings or conclusions. *Edelman v. State*, 160 Wn.App. 294, 303, 248 P.3d 581 (2011).

“Findings of fact are reviewed under the substantial evidence test and will be upheld if supported by ‘a sufficient quantity of evidence to persuade a fair-minded person of [the order’s] truth or correctness.’” *Raven*, 177 Wn.2d at 817.

1. *The APA governs SCC’s entry of disciplinary sanctions against Mr. Nelson.*

University disciplinary proceedings are reviewed under the APA. *Alpha Kappa Lambda*, 152 Wn.App. at 413. Proceedings for the entry of sanctions

against students for violating the standards of conduct at SCC are administered *solely* under WAC 132Q-10.⁷

It is undisputed in the record that disciplinary sanctions were entered against Mr. Nelson and the disciplinary sanctions were based on an alleged violation of WAC 132Q-10:

- a) Ms. Sells, the individual responsible for entering the disciplinary sanctions, reported: “When I determined that plagiarism had occurred and using the criteria spelled out in the course syllabus, SCC Nursing Student handbook, and WAC 132Q-10-210 Academic Dishonesty and ethical violations I chose to give Mr. Nelson a failing grade for the course.” (CP 60, 346; *emphasis added*.)
- b) Ms. Sells also admitted that when she and the Associate Dean held a meeting with Mr. Nelson to administer his disciplinary sanctions, Mr. Nelson was provided with a copy of WAC 132Q-10-210 (“Academic Dishonesty”). (CP 61, 347; *emphasis added*.)
- c) The letter written by Student Conduct Officer Campbell on February 8, 2018, provided a written summary of the allegation against Mr. Nelson, which was summarized merely as “academic dishonesty” in violation of WAC 132Q-10-210. (CP 46, 332; *emphasis added*.)

⁷ WAC 132Q-10-101(4).

- d) Vice President Martin sent a letter to Mr. Nelson confirming that his course failure of *NURS 200* was not performance-based but rather for “violation of the Academic Integrity policy.” (CP 141, 427.) The *Academic Integrity Policy* incorporates WAC 132Q-10 explicitly by reference. (CP 219, 505.)
- e) The letter written by Dr. Cosby and Ms. Martin on April 30, 2018, confirmed that “the matter was dealt with as a violation of the academic integrity policy of the Nursing Program,” which incorporates WAC 132Q-10 explicitly by reference. (CP 146, 432; CP 219, 505.) The letter also confirmed that the failing grade assigned to Mr. Nelson was a “sanction” for plagiarism not an academic assessment of his aptitude for nursing. *Id.*
- f) The letter written by Dr. Cosby and Ms. Martin on May 17, 2018, confirmed again that “the matter was dealt with as a violation of the Academic Integrity Policy of the Nursing Program,” which incorporates WAC 132Q-10 explicitly by reference. (CP 4-5, 27-28, 219, 313-314.)

SCC argues that the APA does not apply because Mr. Nelson was disciplined by a faculty member pursuant to the Nursing Program’s *Academic Integrity Policy*, which it characterizes as an “academic” decision and distinguishes from a disciplinary decision administered by the Student Conduct

Officer pursuant to the procedures required by WAC 132Q-10. (CP 4-5, 27-28, 313-314.)

In presenting this argument, however, SCC makes two errors.

First, SCC implies that the Nursing Program's *Academic Integrity Policy* is an entirely different animal than WAC 132Q-10; however, a cursory review of the *Academic Integrity Policy* reveals SCC makes a distinction without a difference. With regard to plagiarism, cheating, and academic dishonesty, the Nursing Program's *Academic Integrity Policy* is WAC 132Q-10. (CP 218-219; 504-505.) The Nursing Student Handbook's *Academic Integrity Policy* simply incorporates WAC 132Q-10 by reference, and it includes no distinct directives of its own that govern student conduct with respect to plagiarism, cheating, or academic dishonesty. *Id.*

Second, SCC's position implies that the character of an administrative action is determined by the office or department that administers the discipline; in other words, SCC implies that an action taken by a faculty member in the Nursing Program must necessarily be an *academic* decision that evades governance by the APA, and an action taken by the Student Conduct Officer must necessarily be a *disciplinary* action subject to governance by the APA. This is incorrect.

The nature of a proceeding is determined by the issue it adjudicates; proceedings that adjudicate sanctions for the violation of WAC 132Q-10 are

disciplinary proceedings,⁸ and they are governed by the APA. Alpha Kappa Lambda, 152 Wn.App. at 413. The fact that the nature of a proceeding is *not* determined by the identity of the office or department that administers it is confirmed by this Court, which has explicitly stated that all “divisions, departments, or offices” of a college are subject to the APA in the same fashion as the college itself. Arishi v. Washington State University, 196 Wn.App. 878, 884, 385 P.3d 251 (2016)(citing RCW 34.05.010(2),(7)). Therefore, the applicability of the APA is determined by the issues being adjudicated, not the identity of the entity adjudicating them.

The fact that Mr. Nelson was subjected to unauthorized disciplinary sanctions at the hands of an unauthorized faculty member does not transmute a disciplinary sanction into an academic evaluation; to the contrary, that information simply confirms that any disciplinary sanction entered under those conditions was entered wrongfully. SCC applies academic “lipstick” in an effort to disguise the “pig” of an unlawful disciplinary proceeding, but these arguments do not carve out an acceptable exception to the protections of WAC 132Q-10 and the APA; instead, they serve only to *emphasize* SCC’s improper endorsement of rough justice administered by rogue faculty members.

For those reasons, the APA governs the sanctions against Mr. Nelson.

⁸ WAC 132Q-10-101(4)-(5); WAC 132Q-10-105(9).

2. *SCC violated the APA when it entered disciplinary sanctions against Mr. Nelson.*

“An agency order may be invalidated only if one of the circumstances contemplated in RCW 34.05.570(3) is present.” *Raven*, 177 Wn.2d at 816. RCW 34.05.570(3) contains nine potential bases for invalidation of an agency order, six of which are relevant here.

a. *RCW 34.05.570(3)(c); SCC engaged in an unlawful procedure or decision-making process when it adopted and enforced the Nursing Program's 'Administrative Integrity Policy.'*

SCC asserted that Mr. Nelson was properly disciplined under the Nursing Program's *Academic Integrity Policy* for violations of the student code of conduct. Section 4.3 (“Academic Integrity Policy”) of the Nursing Student Handbook incorporates WAC 132Q-10 by reference, after which it provides the following paragraph:

Sanctions for academic integrity violations may include receiving a failing grade for the assignment or examination, or possibly a failing grade for the course. In some cases, the violation may also lead to the student's dismissal from the Nursing program and/or the college.

(CP 219, 505.)

SCC's Nursing Program is not empowered by statute to adopt this policy; this “rule” is superseded by WAC 132Q-10, which states that “[s]anctions for violations of the standards of conduct for students will be administered under

this chapter,” which constitutes “a full understanding of [student] rights and responsibilities.”⁹

The sanctions available pursuant to the procedures contained in WAC 132Q-10 do not include entering a failing grade for an assignment, examination, or a course.¹⁰ WAC 132Q-10 also does not authorize sanctions to be entered by a teacher. This makes sense, because, with few exceptions, “disciplinary sanctions are not made part of the student’s academic record, but are part of a student’s disciplinary record.”¹¹ SCC’s decision to artificially manipulate students’ academic records as a disciplinary sanction violates governing law, which is especially troubling where, as here, it appears to have been designed to evade lawful review.

SCC’s adoption of unlawful decision-making procedures blurs the line between academic assessments and disciplinary sanctions, which frustrates the application of governing law. Academic evaluations and disciplinary proceedings are treated very differently. The United States Supreme Court “distinguished the risk of error and value of procedural safeguards when a school makes academic decisions from the risk and value when it makes decisions about disciplining a student for misconduct.” *Arishi*, 196 Wn.App. at 901 (quoting *Board of Curators of University of Missouri v. Horowitz*, 435 U.S.

⁹ WAC 132Q-10-101(4); emphasis added.

¹⁰ WAC 132Q-10-400.

¹¹ WAC 132Q-10-400(5).

78, 87, 98 S. Ct. 948, 55 L.Ed. 2d 124 (1978)). Far less stringent procedural requirements are called for in the case of an academic decision. *Id.* “The determination whether to dismiss a student for academic reasons requires an expert evaluation of cumulative information and is not readily adapted to the procedural tools of judicial or administrative decisionmaking.” *Arishi*, 196 Wn.App. at 901. “[T]here are distinct differences between decisions to suspend or dismiss a student for disciplinary purposes and similar actions taken for academic reasons which may call for hearing in connection with the former but not the latter.” *Horowitz*, 435 U.S. 87. An assessment of academic performance evaluates the merit of a student’s work based on a rubric outlined in the course syllabus. Generally, the method by which such a grade is calculated can be easily articulated as a mathematical equation that averages earned points inside a weighted system to produce a final grade. The outcome of this equation represents a holistic evaluation of a student’s total cumulative academic performance. Under normal circumstances, a student would only receive a failing grade for a course if she were consistently unable to complete the work assigned in the syllabus or if she were unable to complete work with sufficient quality to meet the course standard. If she repeatedly performed poorly, she may then become ineligible to advance in the program. This type of evaluative assessment is not governed by the APA and proceedings facilitating such decisions receive very little due process protection.

Because grades are expected to be founded on how well a student can perform academic tasks such as ‘identifying the five major political influences that led to the historical Battle of Waterloo,’ a professor’s expert evaluation of a student’s answer is not well-suited to a judicial review process. Judicial officers rarely maintain expertise with respect to academic matters like the Battle of Waterloo and are generally unequipped to evaluate an expert’s grading methods.

A disciplinary sanction, on the other hand, is not an *evaluation* of a student’s academic performance; rather, it is a *punishment* for misconduct. “Misconduct is a very different matter from failure to attain a standard of excellence in studies,” and “[a] determination as to the fact involves investigation of a quite different kind.” *Arishi*, 196 Wn.App. at 901 (additional citations omitted). While some conduct rules are related to academic performance (e.g. rules that forbid cheating), many are not (e.g., rules that forbid sexual violence). Unlike grades, which generally represent a cumulative assessment of an individual student’s response to *many academic* queries over time, disciplinary sanctions are entered based on the answer to *one factual* inquiry: did the student violate the conduct rules or did he not? A judicial proceeding is uniquely well-suited to determine the truth of a factual allegation, and a formal proceeding is necessary to protect the accused from the abuses that easily occur in the absence of due process protections. To do otherwise leaves students vulnerable to circumstances where, as here, one teacher can

appoint herself judge, jury, and executioner, and – in the course of merely three days – unilaterally destroy a student’s entire career with impunity.

SCC’s adoption and enforcement of unlawful sanctions and unlawful sanctioning procedures violated the APA.

b. RCW 34.05.570(3)(c); *SCC engaged in an unlawful procedure or decision-making process when it adopted and enforced the Nursing Program’s ‘Just Cause for Immediate Suspension and Dismissal Policy.’*

As with the *Academic Integrity Policy* discussed above, the Nursing Student Handbook adopted additional sanctions and procedures in the language contained in its Handbook, which it referred to as the “*Just Cause for Immediate Suspension and Dismissal Policy*.” In Section 4.3 (“Student Conduct Expectations”), the Handbook provides a list of violations that “are considered just cause for immediate suspension.” (CP 218, 504.)

In Section 4.5 (“Dismissal Policy”), the Handbook states that “[i]n instances where a student is dismissed due to behavior considered ‘*Just Cause for Immediate Suspension and Dismissal*’ as identified in each clinical evaluation tool, the faculty will determine on a case-by-case basis, whether the dismissal is permanent with no option to return to the nursing program.” (CP 219, 505.) No clinical evaluation tools are contained in the record to determine what this might mean in general or with respect to Mr. Nelson, specifically.

There is no authority for these sanctions in WAC 132Q-10, nor is there authority for faculty to unilaterally investigate, adjudicate, and administer these sanctions – or any sanctions at all.

This policy is superseded by WAC 132Q-10 by the same provisions discussed above, and SCC's decision to adopt and enforce this policy is invalid and violates the APA.

- c. RCW 34.05.570(3)(c); *SCC failed to follow a prescribed procedure when it entered sanctions against Mr. Nelson and dismissed him from the Nursing Program prior to initiating the procedure required by WAC 132Q-10.*

The procedure governing disciplinary proceedings required by WAC 132Q-10 is initiated by the filing of a complaint or a Student Conduct Incident Report (SCIR) pursuant to WAC 132Q-10-305.

In Mr. Nelson's case, Ms. Sells unilaterally accused him, investigated him, found him guilty, entered sanctions against him, and had him dismissed from the program *before* ever even *filing* a SCIR; therefore, Mr. Nelson was subject to disciplinary sanctions without *any* of the procedural protections required by WAC 132Q-10-305. All of the supervisory agents of SCC who subsequently reviewed this process wrongfully endorsed this outcome.

SCC's failure to provide the procedural protections required by WAC 132Q-10 violated the APA.

- d. RCW 34.05.570(3)(d); *SCC erroneously interpreted or applied the law when it concluded that the APA did not apply to the disciplinary sanctions entered against Mr. Nelson.*

As discussed above, disciplinary proceedings are governed by the APA, and any proceeding that adjudicates misconduct and enters sanctions is a disciplinary proceeding. SCC erroneously interpreted the law when it

concluded that the APA did not govern Mr. Nelson's disciplinary proceeding and declined to conduct a disciplinary hearing.

Further, SCC erroneously interpreted the law when it adopted and enforced the Nursing Program's unlawful disciplinary procedures and the use of unauthorized sanctions and when it later declined to follow the procedures of WAC 132Q-10.

e. RCW 34.05.570(3)(f); SCC failed to decide all issues requiring resolution when it decided not to conduct an adjudication pursuant to RCW 34.05.416.

SCC failed to properly decide any issue to be adjudicated regarding the allegations against Mr. Nelson when it declined to adhere to the procedural requirements of WAC 132Q-10 and chose, instead, to defer to the unlawful administration of justice by nursing faculty. SCC admits as much when it submitted its brief to the trial court: "As the student conduct office was taking no action, [Mr. Nelson's appeal filed on February 9, 2019] was ultimately sent to the nursing department for review." (CP 612.)

f. RCW 34.05.570(3)(h); SCC issued an order inconsistent with its own rule.

Pursuant to WAC 132-10-306(1), the Student Conduct Officer is required to "conduct an initial assessment of a complaint to determine whether it alleges conduct that may be prohibited by the standards of conduct for students." Here, it is apparent that Ms. Sells' complaint explicitly alleges a student conduct violation, specifically "plagiarism." (CP 29-30, 315-316.)

The Student Conduct Officer is then expected to determine “whether the complaint, if as alleged were true would constitute a violation of any of the standards of conduct for students.”¹² Here, again, it is apparent that it would, and it is further apparent that the Student Conduct Officer was aware that it would as demonstrated by his reference to WAC 132Q-10-210. (CP 29-30, 315-316.)

“If the student conduct officer determines the alleged conduct would constitute a violation, it is deemed to have merit warranting further review.”¹³ “If the complaint does not have merit the student conduct officer will dismiss the complaint.” *Id.*

In this case, Student Conduct Officer Campbell neither dismissed the complaint against Mr. Nelson nor did he continue with further review; rather, he acknowledged that there had been a violation (“[p]lease be advised, though, that future violations of this nature may invoke progressive sanctions”), but declined to initiate the procedure required by WAC 132Q-10-318 (“Student Conduct Officer Disciplinary Proceedings”), deferring his authority, instead, to the unlawful adjudication process undertaken by the Nursing Program and adopting/ratifying the outcome that occurred there. (CP 45, 331.)

Contrary to the argument of SCC, then, Student Conduct Officer Campbell *did* take action on the SCIR by adopting the findings of the Nursing Program

¹² WAC 132Q-10-306(1).

¹³ WAC 132Q-10-306(1).

and ratifying their disciplinary process in lieu of the appropriate procedures required by WAC 132Q-10.

Mr. Nelson appealed within twenty calendar days as required by WAC 132Q-10-318(14) and WAC 132Q-10-335. Mr. Nelson timely appealed a disciplinary action, and he therefore had “a right to a prompt, fair, and impartial hearing” as outlined in WAC 132Q-10.¹⁴

Appeals are reviewed by the appeals board.¹⁵ In this case, SCC declined to hear the appeal and issued a “decision not to conduct an adjudication” pursuant to RCW 34.05.416. (CP 4-5, 27-28, 313-314.)

The initial decision written by Student Conduct Officer Campbell was inconsistent with SCC’s own rules as set forth in WAC 132Q-10. The subsequent decision not to conduct an adjudication was also inconsistent with SCC’s own rules as set forth in WAC 132Q-10.

*g. RCW 34.05.570(3)(i); SCC’s decision was arbitrary and capricious.*¹⁶

This Court considered the question of whether an agency decision is arbitrary and capricious in *Alpha Kappa Lambda v. Washington State University*.¹⁷ “A decision is arbitrary or capricious for purposes of RCW

¹⁴ WAC 132Q-10-335(3).

¹⁵ WAC 132Q-10-335(5).

¹⁶ While Mr. Nelson steadfastly argues that the entry of disciplinary sanctions for misconduct is not an academic decision, were this Court to determine otherwise: “Professors in the position of making academic decisions will not be second-guessed by the courts,” however, “[w]here a university acts in an arbitrary and capricious fashion or in bad faith, then courts generally have accepted review of these decisions.” *Maas v. Gonzaga*, 27 Wn.App. 397, 403, 618 P.2d 106 (1980)(additional citations omitted).

¹⁷ 152 Wn.App. 401, 421, 216 P.3d 451 (2009).

34.05.570(3)(i) if it is a ‘willful and unreasoning action, taken without regard to or consideration of the facts and circumstances surrounding the action.’” Alpha Kappa Lambda, 152 Wn.App. at 421 (additional citations omitted).

In that case, this Court determined that the sanctions entered by the school were not arbitrary and capricious because they had been entered by the Conduct Board, which had the authority to determine appropriate sanctions and because the sanctions that were entered had been within the acceptable range of options available to the Conduct Board to enter at its discretion. Alpha Kappa Lambda, 152 Wn.App. at 422.

In this case, the sanctions entered were entered by a faculty member, Ms. Sells, who was not an individual authorized by WAC 132Q-10 to enter sanctions against students, and the sanctions that were entered were not authorized sanctions as defined by WAC 132Q-10.

Therefore, SCC’s entry of sanctions was arbitrary and capricious.

h. SCC’s action violates state and federal constitutional provisions on its face or as applied.

Constitutional issues are discussed in ‘Section B’ below.

3. Mr. Nelson was prejudiced by SCC’s violation of the APA.

Regardless of whether there was a procedural violation, an appellant must show prejudice. RCW 34.05.570(l)(a),(d); Alpha Kappa Lambda, 152 Wn.App. at 414. Mr. Nelson bears the burden of showing that he was ‘substantially prejudiced’ by SCC’s actions. *Id.*

The record indicates contains a variety of legal and factual issues that had bearing on whether Mr. Nelson actually violated WAC 132Q-10 at all. The record contains substantial evidence and argument presented by Mr. Nelson that would have been relevant to his defense in a proceeding.

The record confirms that Ms. Sells did not have the authority or the expertise to interpret the definition of “plagiarism.” Ms. Sells’ own statement confirms that she does not understand the difference between plagiarism, cheating, and other forms of academic dishonesty.

It is undisputed in the record that Mr. Nelson believed he was permitted to collaborate with another student on the project and readily reported the same; at no time did he represent otherwise. A failure to follow directions due to mistake or confusion is not academic dishonesty.

There is allegedly conflicting evidence between the testimony as provided by Mr. Nelson and the testimony provided by Ms. Doe. The credibility and veracity of the witnesses are therefore relevant to the determination of the case; therefore, oral testimony and cross-examination as provided for in the WAC 132Q-10 were critical.

Mr. Nelson provided substantial evidence demonstrating that Ms. Sells was personally hostile to him and had previously demonstrated her interest in damaging his career, which impeaches her credibility with regards to her motives for disciplining him. Mr. Nelson provided substantial evidence from

other students corroborating that Ms. Sells had a known history of undertaking unwarranted campaigns to punish students whom she did not personally like.

The record confirms that Mr. Nelson demonstrated above-average academic achievement in *NURS 200* for the work he was permitted to complete. At the time of his dismissal, Mr. Nelson had almost graduated from the Nursing Program and had one and a half weeks left until he could sit for his license. Instead of being permitted to obtain his license and graduate as his academic performance entitled him to do, Mr. Nelson was subjected to unlawful disciplinary procedures without due process, forced to accept a failing “grade” that misrepresented his academic performance, and was forcibly ejected from the Nursing Program with no available recourse but to pursue legal action at his own considerable expense. Frustratingly, the financial burden associated with Mr. Nelson’s pursuit of justice is added to the unjust burden of servicing student loans for which he wrongfully received no benefit.

Finally, although Mr. Nelson has always maintained his innocence with respect to any academic dishonesty, even if he had been found guilty in a proper proceeding, a review of the likely sanctions for first-time offenses (required attendance at an educational program, a written statement on the misconduct and its impact, or signing an agreement regarding future behavioral expectations) would likely not have resulted in his dismissal from the Nursing Program or his failure of *NURS 200*.

Mr. Nelson has demonstrated a reasonable probability that had he been provided with all of the required rights and safeguards, the result of the proceeding would have been different.

CONCLUSION: Mr. Nelson has met his burden to demonstrate that SCC's actions were invalid under the APA and that SCC's actions substantially prejudiced him; therefore, he is entitled to relief.

B. SCC violated Mr. Nelson's constitutional rights when it entered disciplinary sanctions without providing due process.

"The Fourteenth Amendment forbids the State to deprive any person of life, liberty, or property without due process of law." *Goss v. Lopez*, 419 U.S. 565, 572, 95 S. Ct. 729, 42 L.Ed.2d 725 (1975).

1. Mr. Nelson is entitled to Due Process.

"Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 U.S. 319, 332, 96 S. Ct. 893, 47 L.Ed.2d 18 (1976). "Liberty' and 'property' are broad and majestic terms," that require some definition. *Board of Regents v. Roth*, 408 U.S. 564, 571, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972). Property interests protected by procedural due process extend "well beyond actual ownership of real estate, chattels, or money," and "by the same token, the Court has required due process protection for

deprivations of liberty beyond the sort of formal constraints imposed by the criminal process.” *Id* at 571-572 (additional citations omitted).

PROPERTY: “The Fourteenth Amendment’s procedural protection of property is a safeguard of the security of interests that a person has already acquired in specific benefits.” *Roth*, 408 U.S. at 576.

To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. It is a purpose of the ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined. It is a purpose of the constitutional right to a hearing to provide an opportunity for a person to vindicate those claims.

Roth, 408 U.S. at 577. Property interests are not created by the Constitution; rather, “they are created, and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law – rules or understandings that secure certain benefits that support claims of entitlement to those benefits.” *Roth*, 408 U.S. at 577.

A college student in good standing has more than a “unilateral expectation” that, upon completion of the required course work, he will receive his promised degree. Mr. Nelson is assured that outcome by state statute and SCC’s published policies as well as by the contract that results from his payment of tuition in return for instruction. Once Washington chooses to extend the right of education to people of Mr. Nelson’s class generally (students in good standing), it “may not withdraw that right on grounds of misconduct, absent

fundamentally fair procedures to determine whether the misconduct has occurred.” Goss, 419 U.S. at 574. The State is “constrained to recognize a student’s legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that Clause.” *Id.* Mr. Nelson’s property interest is implicated in this case by the deprivation of all his personal and financial investment in his degree through the imposition of a suspension,¹⁸ a failing grade, and his dismissal from the Nursing Program.

LIBERTY: “The Due Process Clause also forbids arbitrary deprivations of liberty.” Goss, 419 U.S. at 574. A protected liberty interest includes not only the freedom from bodily restraint, but also the right “to engage in any of the common occupations of life,” “to acquire useful knowledge,” and to “enjoy those privileges long recognized ... as essential to the orderly pursuit of happiness by free men.” Roth, 408 U.S. at 572 (additional citations omitted). “[W]here a person’s good name, reputation, honor, or integrity is at stake because of what the government is doing to him,” liberty interests are implicated. Roth, 408 U.S. at 573 (additional citations omitted). Mr. Nelson’s liberty interest is implicated by allegations of misconduct.

¹⁸ “Students facing temporary suspension have interests qualifying for protection of the Due Process Clause.” Goss, 419 U.S. at 581.

Mr. Nelson's property and liberty interests are implicated by SCC's action and, as a result, he was entitled to due process protection.

2. *The process due to Mr. Nelson included the right to receive reasonable notice, to attend a hearing held by a neutral officer, to present oral argument, to cross-examine witnesses, and to have counsel.*

"Once it is determined that due process applies, the question remains what process is due." *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S. Ct. 2593, 33 L.Ed.2d 484 (1972).

"[T]he specific dictates of due process in a given case generally requires consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Arishi*, 196 Wn.App. at 899 (additional citations omitted). "Financial cost alone is not a controlling weight in determining whether due process requires a particular procedural safeguard prior to some administrative decision;" rather, "[t]he ultimate balance involves a determination as to when, under our constitutional system, judicial-type procedures must be imposed upon administrative action to ensure fairness." *Mathews*, 424 U.S. at 348.

"Central to the evaluation of any administrative process is the nature of the relevant inquiry." *Mathews*, 424 U.S. at 343. This is the issue that forms the

heart of the dispute now before the Court. SCC claims that the relevant inquiry is academic in nature, and Mr. Nelson asserts that it is disciplinary. The argument on this issue has already been presented above; the record supports the conclusion that Ms. Sells' sanctioning of Mr. Nelson was a disciplinary decision based on a determination of misconduct rather than an academic decision based on an evaluation of academic performance.¹⁹

NOTICE & HEARING: The Due Process Clause requires "at a minimum," "that deprivation of life, liberty, or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Goss*, 419 U.S. at 579.

This is especially true in cases of educational suspensions. "Neither the property interest in educational benefits temporarily denied nor the liberty interest in reputation, which is also implicated, is so insubstantial that suspensions may constitutionally be imposed by any procedure the school chooses, no matter how arbitrary." *Goss*, 419 U.S. at 576.

The students' interest is to avoid unfair or mistaken exclusion from the educational process, with all of its unfortunate consequences. The Due Process Clause will not shield him from suspensions properly imposed, but it disserves both his interest and the interest of the State if his suspension is, in fact, unwarranted. The concern would be mostly

¹⁹ If, however, this Court were to determine that the decision to sanction Mr. Nelson was academic, that does not prevent review. The academic decisions of a public educational institution may also be reviewed under a due process standard when the faculty's professional judgment is such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment. *Regents of the University of Michigan v. Ewing*, 474 U.S. 214, 225, 106 S. Ct. 507, 88 L.Ed.2d 523 (1985).

academic if the disciplinary process were a totally accurate, unerring process, never mistaken and never unfair. Unfortunately, that is not the case, and no one suggests that it is. Disciplinarians, although proceeding in utmost good faith, frequently act on reports and advice of others; and the controlling facts and the nature of the conduct under challenge are often disputed. The risk of error is not at all trivial, and it should be guarded against if that may be done without prohibitive cost or interference with the educational process.

Goss, 419 U.S. at 579-580. For students facing temporary suspensions, due process requires “that the student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story;” “[t]he Clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school.” Goss, 419 U.S. at 581.

“NEUTRAL” OFFICER: The United States Supreme Court has noted that hearings do not necessarily have to be conducted by a judicial officer, but they ought to be conducted by someone other than the party who made the report of violations or who has recommended punishment. Morrissey v. Brewer, 408 U.S. at 486.

ORAL ARGUMENT & CROSS-EXAMINATION: These rights are important in cases where the challenge rests on assertions that the State relied on incorrect or misleading factual premises or on misapplication of rules or policies to the facts of particular cases. Goldberg, 397 U.S. at 268.

“The opportunity to be heard must be tailored to the capacities and circumstances of those who are to be heard.” *Goldberg v. Kelly*, 397 U.S. 254, 268-269, 90 S. Ct. 1011, 25 L.Ed.2d 287 (1970). “[W]ritten submissions do not afford the flexibility of oral presentations; they do not permit the recipient to mold his argument to the issues the decisionmaker appears to regard as important.” *Id.* “Particularly where credibility and veracity are at issue,” the U.S. Supreme Court found that “written submissions are a wholly unsatisfactory basis for decision.” *Id.*

Further, “[i]n almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.” *Id.* This is especially important in circumstances where the evidence consists of “the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy.” *Goldberg*, 397 U.S. at 270. These protections are formalized in the requirements of confrontation and cross-examination. *Id.*

COUNSEL: “The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. *Goldberg*, 397 U.S. at 270 (additional citations omitted).

The process due to Mr. Nelson included sufficient timely notice, a meaningful hearing before a neutral officer, the opportunity to present oral

argument and cross-examine adverse witnesses, and to have the option of obtaining the assistance of counsel.

Mr. Nelson received none of these protections.

3. *Mr. Nelson did not receive due process.*

In *Goss v. Lopez*, the United States Supreme Court determined that “the claimed right of the State to determine unilaterally and without process whether misconduct has occurred immediately collides with the requirements of the Constitution.” *Goss*, 419 U.S. at 575. Here, SCC permitted a non-neutral officer to unilaterally²⁰ determine, without process, that Mr. Nelson was guilty of misconduct and to sanction him according to her own standards. Mr. Nelson was afforded no notice and no hearing.

While SCC argues that Mr. Nelson received the benefit of a grade appeal process, that is *not* the due process required when the issue at hand is the deprivation of liberty or property interests, which is notice and opportunity for hearing “*appropriate to the nature of the case.*” *Goss*, 419 U.S. at 579.

Therefore, SCC violated Mr. Nelson’s right to due process.

²⁰ Ms. Sells claims that there was some kind of group determination of support by the Nursing Program, but no such information exists in the record outside her testimony. Even if such a clandestine determination had occurred: “Secrecy is not congenial to truth-seeking, and self-righteousness gives too slender an assurance of rightness;” “no better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it.” *Anti-Fascist Committee v. McGrath*, 341 U.S. 123, 170-172, 71 S. Ct. 624, 95 L.Ed. 817 (1951)(Frankfurter, K., concurring).

C. Mr. Nelson is entitled to an award of fees on appeal.

Mr. Nelson seeks an award of attorney fees and costs pursuant to the equal access to justice act, RCW 4.84.340. RAP 18.1(a) allows attorney fees on appeal if they are authorized by applicable law.

RCW 4.84.350(1) provides that a court “shall award a qualified party that prevails in a judicial review of an agency action fees and other expenses, including reasonable attorneys’ fees, unless the court finds that the agency action was substantially justified or that circumstances make an award unjust.” A qualified party prevails if it “obtain[s] relief on a significant issue that achieves some benefit” that the party sought in the judicial review proceeding. RCW 4.84.350(1).

“Substantially justified means justified to a degree that would satisfy a reasonable person.” Silverstreak v. Washington State Dept. of Labor and Industries, 159 Wn.2d 868, 892, 154 P.3d 891 (2007)(additional citations omitted). “It ‘requires the State to show that its position has a reasonable basis in law and fact.’” Silverstreak, 159 Wn.2d at 892 (additional citations omitted). “The relevant factors in determining whether the [agency] was substantially justified are, therefore, the strength of the factual and legal basis for the action, not the manner of the investigation and the underlying legal decisions.” *Id.*

Here, SCC had no factual or legal basis to defer its duty to provide appropriate disciplinary procedure to the administration of unauthorized individuals using unauthorized procedures to enter unauthorized sanctions.

SCC acknowledged that the Student Conduct Incident Report made by Ms. Sells implicated WAC 132Q-10, yet it declined to administer the matter as required by that chapter, deferring instead to the Nursing Program's administration of rough justice. A reasonable person would not be satisfied that SCC's action was justified; this conclusion is confirmed by the fact that the SCC *itself* was not satisfied with such circumstances and previously created its own rules – as contained in WAC 132Q-10 – for the *very purpose* of preventing such an unreasonable outcome.

SCC was not substantially justified in its action; therefore, Mr. Nelson is entitled to fees.

VI. CONCLUSION

Mr. Nelson met his burden to demonstrate that he was prejudiced by SCC's numerous violations of his statutory due process rights, and that SCC's action was invalid under the APA; Mr. Nelson is entitled to relief.

Further, Mr. Nelson also demonstrated that he is entitled to relief from SCC's violation of his constitutional due process rights, and that he is entitled to attorney's fees on appeal.

RESPECTFULLY SUBMITTED this 21st day of JUNE, 2019,



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CERTIFICATE OF ATTORNEY

I certify that on June 21, 2019, I arranged for hand-delivery of a copy
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Appendix 1

CCS Student Code of Conduct – WAC 132Q-10

Chapter 132Q-10 WAC

Last Update: 5/18/17

STANDARDS OF CONDUCT FOR STUDENTS

WAC Sections

132Q-10-101	Standards of conduct for students—Preamble.
132Q-10-105	Definitions.
132Q-10-110	Interpretations.
132Q-10-112	Records.
132Q-10-115	Decisions and appeals.
132Q-10-120	Jurisdiction of the standards of conduct for students.
132Q-10-125	Violation of law and standards of student conduct.
132Q-10-130	Responsibility for guests.
132Q-10-135	Students studying abroad.
132Q-10-140	Group conduct.
132Q-10-200	Misconduct—Violations of the standards of conduct for students.
132Q-10-210	Academic dishonesty and ethical violations.
132Q-10-211	Competence to profit from curriculum offerings.
132Q-10-212	Disruption or obstruction.
132Q-10-214	Abuse of self.
132Q-10-215	Assault, intimidation, bullying, verbal threats.
132Q-10-216	Theft or damage to property.
132Q-10-218	Hazing.
132Q-10-220	Failure to comply with college officials.
132Q-10-222	Unauthorized keys or unauthorized entry.
132Q-10-224	Violation of CCS policy, procedure, rule, regulation, or behavioral contract.
132Q-10-226	Violation of law.
132Q-10-228	Drugs, controlled substances, and marijuana.
132Q-10-230	Alcohol.
132Q-10-231	Use of tobacco, electronic cigarettes and related products.
132Q-10-232	Firearms and dangerous weapons.
132Q-10-234	Disorderly conduct.
132Q-10-236	Unauthorized use of electronic or other devices.
132Q-10-238	Abuse or theft of CCS information technology.
132Q-10-240	Abuse of the student conduct system.
132Q-10-242	Discrimination.
132Q-10-243	Sexual harassment.
132Q-10-244	Sexually violent conduct.
132Q-10-246	Harassment.

132Q-10-250	Reckless endangerment.
132Q-10-252	Trespassing.
132Q-10-254	Violation of a disciplinary sanction.
132Q-10-255	Aiding others.
132Q-10-305	Process to file complaints.
132Q-10-306	Initial review of complaints.
132Q-10-310	Disposition of misconduct complaints by the student conduct officer.
132Q-10-315	Notice to the accused student of complaint.
132Q-10-318	Student conduct officer disciplinary proceedings.
132Q-10-320	Interim suspension and other restrictions.
132Q-10-325	Student conduct board proceedings.
132Q-10-330	Student conduct board decision and notification.
132Q-10-332	Student conduct administrative panel proceedings.
132Q-10-333	Student conduct administrative panel decision and notification.
132Q-10-335	Appeals of misconduct—Review of decision.
132Q-10-400	Disciplinary sanctions.
132Q-10-500	Classroom misconduct and authority to suspend for up to three days.
132Q-10-501	Additional procedural requirements for sexually violent conduct matters.
132Q-10-502	Supplemental procedures for allegations of sexually violent conduct.
132Q-10-503	Supplemental appeal rights for alleged sexually violent conduct.

132Q-10-101

Standards of conduct for students—Preamble.

(1) Community Colleges of Spokane (CCS), a multicollge district, 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 CCS exhibit appropriate and conscientious behavior in dealing with others.

(2) CCS 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 a college within CCS 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 district, the colleges and their departments, maintain a high standard of integrity and honesty and respect the rights, privileges and property of other members of CCS.

(4) Students are responsible for their conduct. These standards of conduct for students promote CCS'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 consistent with the provisions of FERPA.

(5) This chapter, chapter 132Q-10 WAC, constitutes the Community Colleges of Spokane standards of conduct for students. This chapter may also be referred to as the CCS student code of conduct.

132Q-10-105

Definitions.

For the purposes of this chapter, the following terms shall mean:

(1) "Accused student" means any student accused of violating the standards of conduct for students.

(2) "Appeals board" is a district-wide board composed of one administrator from each college appointed by the chief executive of that college. The appeals board considers appeals from a student conduct board's determination or from the sanctions imposed by the student conduct officer. The appeals board is convened by the student conduct officer.

(3) The "chief student services officer" is the vice president of student services of Spokane Community College or of Spokane Falls Community College, or a person designated by the college president to be responsible for the administration of the standards of conduct for students. The chief student services officer also serves as the Title IX coordinator for matters regarding conduct of Community Colleges of Spokane (CCS) students.

(4) "College" means Spokane Community College, Spokane Falls Community College, and all locations of CCS.

(5) "College official" includes any person employed by the college performing assigned duties with the exception of work study students.

(6) "College premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the Community Colleges of Spokane (including adjacent streets and sidewalks).

(7) "College president" includes the president of Spokane Falls Community College and the president of Spokane Community College. Each president is authorized to designate a chief student service officer on behalf of his or her respective institutions.

(8) "Complainant" means any member of CCS, including employee(s), contractor(s), visitor(s), or guest(s) who submits a report alleging that a student violated the standards of conduct for students. When students believe they have been victimized by another student's misconduct, they have the same rights under these standards as are provided to the complainant, even if another member of CCS submitted the charge itself. For the purposes of complaints involving sexual misconduct, the "complainant" is the alleged victim of sexual misconduct even if the complaint is filed by a third party including, but not limited to, complaints filed by CCS, SFCC, or SCC.

(9) "Disciplinary action" is the process by which discipline is imposed against a student, members of a student organization, or a student organization for a violation of the standards of conduct for students by a student conduct officer, the student conduct board, the student conduct administrative panel, the appeals board, or a faculty member.

(10) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the chief student services officer, the student conduct officer, the student conduct board, or the student conduct administrative panel. Appeals of all appealable disciplinary action shall be determined by the appeals board.

(11) "Disciplinary hearing" is the process during which an accused student has the opportunity to respond to a complaint alleging a violation(s) of the standards of conduct for students. The accused student has the opportunity to explain what he or she did and to provide evidence that is relevant to the complaint. Alleged misconduct that would not result in suspension in excess of ten instructional days or an expulsion shall be reviewed through a brief adjudicative proceeding held by the student conduct officer or the student conduct board.

(12) "Faculty member" means a teacher, counselor, or librarian or person who is otherwise considered by the college to be a member of its faculty.

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

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

(b) By sending the document by email and first class mail to the recipient's college email and office address. Papers required to be filed with the college shall be deemed filed upon actual receipt during office hours at the office of the specified official.

(14) "Instructional day" means Monday through Friday, except for federal or state holidays, when students are in attendance for instructional purposes.

(15) "Member of CCS" includes any person who is a student, faculty member, college official, guest, contractor, or visitor of CCS. A person's status in a particular situation is determined by the chief student services officer.

(16) "Notice" or "service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, 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 document or upon the date the document is emailed and deposited into mail.

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

(18) "Sexually violent conduct" is a sexual or gender-based violation of the standards of conduct for students including, but not limited to:

(a) Nonconsensual sexual activity including sexual activity for which clear and voluntary consent has not been given in advance; and sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping, incapacitated due to alcohol or drugs, has an intellectual or other disability that prevents the individual from having the capacity to give consent, or is subject to duress, threat, coercion or force.

(b) Sexual assault, domestic violence, dating violence, and sexual or gender-based stalking;

(c) Nonphysical conduct such as indecent liberties, sexual exploitation, indecent exposure, sexual exhibitionism, sex or gender-based digital media stalking, sexual or gender-based online harassment, sexual or gender-based cyberbullying, nonconsensual posting or recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

(19) "Student" includes a person taking courses at or through the college, either full time or part time. For the purposes of the standards of conduct for students, the term applies from the time of application for admission through the actual receipt of a degree or certificate, even though conduct may occur before classes begin or after classes end. The term also applies during the academic year, during periods between terms of actual enrollment and includes individuals who are not officially enrolled for a particular quarter but have a continuing relationship with the college (including suspended students), and students participating in study abroad programs. "Student" also includes "student organization" and persons who withdraw after allegedly violating the standards of conduct for students.

(20) "Student organization" means any number of persons who have complied with the formal requirements for college recognition, such as clubs and associations, and are recognized by the college as such.

(21) "Student conduct administrative panel" is a panel appointed by the president of the college to hear initial complaints referred by the student conduct officer involving allegations of sexual misconduct or other misconduct which may result in a suspension of more than ten instructional days or dismissal/expulsion from the college. The panel shall consist of three faculty members appointed by the president and two members of the administration, but not the vice president of student services, appointed by the president at the beginning of the academic year. One of the members of the administration shall serve as the chair of the committee. If that individual is not available for a hearing or has a conflict of interest, the other member of the administration shall chair the individual hearing. The chairs shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct. The student conduct officer convenes the board and appoints the chair for each hearing. Hearings may be held by a quorum of three members of the committee so long as one faculty member and one administrator are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(22) "Student conduct board" is a board appointed by the president of the college to hear initial

complaints referred by the student conduct officer to determine whether a student has violated the general standards of conduct for students, and to impose sanctions when a violation has been committed for misconduct that would result in discipline involving an academic suspension of ten instructional days or less or a discipline not involving dismissal or expulsion from the college. The board shall have at least one member from the respective groups: Faculty, students, and administration. The student conduct officer convenes the board and appoints the chair. Hearings may be held by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of the committee members attending the hearing.

(23) "Student conduct officer" means the individual or individuals designated by the college president to facilitate and coordinate student conduct matters pursuant to these standards of conduct for students.

(24) "Title IX coordinator" means the vice president of student services for the college or his/her designee who is responsible for coordinating Title IX matters regarding students of CCS who is also known as the chief student services officer.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-105, filed 7/21/15, effective 8/21/15.]

132Q-10-110

Interpretations.

Any question of interpretation or application of the standards of conduct for students shall be determined by the chief student services officer.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-110, filed 7/21/15, effective 8/21/15.]

132Q-10-112

Records.

(1) Disciplinary records are maintained in accordance with the records retention schedule.

(2) The disciplinary record is generally considered confidential pursuant to the Family Educational Rights and Privacy Act (FERPA).

(3) Students may request a copy of their own disciplinary record at their own reasonable expense by making a written request to the chief student services officer.

(4) Personally identifiable student information is redacted to protect another student's privacy consistent with FERPA.

(5) Students may authorize release of their own disciplinary record to a third party in compliance with the FERPA by making a written request to the chief student services officer.

(6) Pursuant to FERPA, the college may inform the complainant of the outcome of any disciplinary proceeding involving a crime of violence or nonforcible sex offense as defined by FERPA including: Arson; assault offenses (aggravated assault, simple assault, intimidation, and stalking); burglary, criminal homicide (manslaughter by negligence, murder, and nonnegligent manslaughter); destruction/damage/vandalism of property; kidnapping/abduction; robbery; forcible sex offenses (rape, sodomy, assault with an object, fondling, indecent liberties, and child molestation); and nonforcible sex offenses (incest and statutory rape).

(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 for tax purposes as permitted by FERPA.

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

(c) In response to a lawfully issued subpoena.

(d) In response to a court order.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-112, filed 7/21/15, effective 8/21/15.]

132Q-10-115

Decisions and appeals.

Decisions made by a student conduct board, the student conduct officer, or chief student services officer shall remain in effect during the appeal processes provided in this chapter unless an order of stay is granted by the chief student services officer. Students must identify if they are seeking a stay of a decision by the student conduct board, the student conduct officer or chief student services officer in their appeal. Appeals will comply with this chapter.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-115, filed 7/21/15, effective 8/21/15.]

132Q-10-120

Jurisdiction of the standards of conduct for students.

The standards of conduct for students apply to conduct that occurs on college premises, at college-sponsored activities, and to off-campus conduct that adversely affects CCS's educational environment and/or the pursuit of its objectives as set forth in its mission. Jurisdiction extends to locations in which students are engaged in official college activities including, but not limited to, athletic events, activities funded by associated students, training internships, cooperative and distance education, online education, study abroad programs, practicums, supervised work experiences, any other college-sanctioned social or club activities, and/or foreign or domestic travel associated with any of these events or 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 college has sole discretion to determine what conduct occurring off campus adversely impacts the college and/or the pursuit of its objectives.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-120, filed 7/21/15, effective 8/21/15.]

132Q-10-125

Violation of law and standards of student conduct.

(1) College disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and the standards of conduct for students without regard to pending criminal litigation in court or criminal arrest and prosecution. Proceedings under these standards of conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the chief student services officer. Determinations made or sanctions imposed under these standards of conduct are not subject to change because criminal charges were dismissed, reduced or resolved in favor of or against the criminal law defendant. Students in this circumstance who remain silent should recognize that they give up their opportunity to explain their side of the story and that a decision will be made based on the information presented.

(2) When a student is charged by federal, state or local authorities with a violation of law, the college does not request or agree to special consideration for that student because he or she is a student. If the alleged offense also is being processed under the standards of conduct for students, the college may advise off-campus authorities of the existence of the standards and of how such matters are typically handled within CCS. The college cooperates with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators provided that the conditions do not conflict with college rules or sanctions. Members of CCS, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-125, filed 7/21/15, effective 8/21/15.]

132Q-10-130

Responsibility for guests.

A student or student organization is responsible for the conduct of guests on or in college premises and at functions sponsored by the college or sponsored by a recognized student organization. Bringing any person including children to a teaching environment without the express approval of the faculty member or other authorized official is prohibited.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-130, filed 7/21/15, effective 8/21/15.]

132Q-10-135

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) The policies, procedures, rules, and regulations of CCS, its colleges and departments and any behavioral contracts between CCS, SFCC, or SCC with a student;
- (4) Any other agreements related to the student's study program in another country; and
- (5) The CCS standards of conduct for students.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-135, filed 7/21/15, effective 8/21/15.]

132Q-10-140

Group conduct.

Student organizations, including student clubs and athletics, are expected to comply with the standards of conduct for students and with CCS policies and procedures when engaging in conduct that occurs on college premises and at college-sponsored activities. When a member or members of a student organization violates the standards of conduct for students or CCS policies or procedures, including engaging in off-campus conduct that adversely affects CCS's educational environment and/or the pursuit of its objectives as set forth in its mission, the student organization and/or individual members may be subject to appropriate sanctions.

132Q-10-200

Misconduct—Violations of the standards of conduct for students.

(1) General misconduct – Any student or student organization alleged to have committed or to have attempted to commit misconduct specified in this chapter is subject to the disciplinary proceedings as described in WAC 132Q-10-310 and to the disciplinary sanctions in WAC 132Q-10-320 and 132Q-10-400, except sexually violent conduct as defined in WAC 132Q-10-105(18) and further detailed in WAC 132Q-10-244.

(2) Sexually violent conduct – Any student or student organization alleged to have committed or to have attempted to commit sexually violent conduct as defined in WAC 132Q-10-105(18) and further detailed in WAC 132Q-10-244 is subject to the disciplinary process provided in WAC 132Q-10-332 is subject to the disciplinary sanctions in WAC 132Q-10-320 and 132Q-10-400.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-200, filed 7/21/15, effective 8/21/15.]

132Q-10-210

Academic dishonesty and ethical violations.

(1) Acts of academic dishonesty will be reported to the student conduct officer and include the following:

(a) Cheating which includes:

(i) Use of unauthorized assistance in taking quizzes, tests, or examinations.

(ii) Acquisition, without permission, of tests or other academic material belonging to a member of the college faculty or staff.

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

- Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;
- Counterfeiting a record of internship or practicum experiences;
- Submitting a false excuse for absence or tardiness;
- Unauthorized multiple submission of the same work; sabotage of others' work.

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

(v) Plagiarism which includes the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. 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.

(vi) Facilitation of dishonesty, including not challenging academic dishonesty.

(b) Knowingly furnishing false information to any college official, faculty member, or office including submission of fraudulent transcripts from other institutions.

(c) Forgery, alteration or misuse of any college document, record or instrument of identification.

(d) Tampering with an election conducted by or for CCS college students.

(2) Acts of ethical violations will be reported to the student conduct officer and include the following: The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal.

132Q-10-211

Competence to profit from curriculum offerings.

Students must demonstrate a competence to profit from the curriculum offerings of the college to retain the ability to attend college pursuant to RCW 28B.50.090.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-211, filed 7/21/15, effective 8/21/15.]

132Q-10-212

Disruption or obstruction.

Students have the right to freedom of speech, including the right to dissent or protest, but this expression may not interfere with the rights of other members of CCS or disrupt college activities. Student behavior that creates a disruptive atmosphere not consistent with the purposes of the college including teaching, administration, research, disciplinary proceedings, other college activities, or any college authorized activities, whether conducted or sponsored by the college is prohibited pursuant to RCW 28B.50.090. Obstructing the free flow of pedestrian or vehicular traffic on college premises or at college-sponsored events is prohibited.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-212, filed 7/21/15, effective 8/21/15.]

132Q-10-214

Abuse of self.

Physical abuse, threats, intimidation and/or other conduct, which threatens or endangers the health or safety of one's self.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-214, filed 7/21/15, effective 8/21/15.]

132Q-10-215

Assault, intimidation, bullying, verbal threats.

Assault, physical abuse, verbal abuse, threat(s), intimidation, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this paragraph:

(1) Assault involves one person causing or attempting to cause bodily harm to another person: With a firearm; with a deadly weapon; with a weapon or other instrument or thing likely to produce bodily harm; with force that is likely to produce bodily harm or death; through the administration, exposure or transmission of poison, a destructive or noxious substance, or the human immunodeficiency virus; by strangulation or suffocation. It also includes actions which are intended to prevent or resist the execution of any lawful process, apprehension or detention of a person by a security officer or law enforcement.

(2) Bullying and intimidation – Any intentional written, verbal, or physical act including, but not limited to, one shown to be motivated by the victim's race, color, religion, ancestry, national origin, gender, sexual

orientation, or mental, physical or sensory disability, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act is so severe, persistent or pervasive that it creates an intimidating or threatening educational environment and:

- (a) Physically harms a student or damages the student's property;
- (b) Has the effect of substantially interfering with a student's education; or
- (c) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the bullying or intimidation.

(3) Cyberbullying - Is bullying conducted using electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites.

(4) Verbal threats - Include threats against a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all circumstances. If the threats are because of a person's perception of a victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical or sensory disability, the fear must be fear that a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same mental, physical, or sensory disability as the victim would have. Words alone do not constitute malicious harassment unless the context or circumstances surrounding the words indicate the words are a threat.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-215, filed 7/21/15, effective 8/21/15.]

132Q-10-216

Theft or damage to property.

Theft of, possession after it has been stolen, or misuse of, and/or actual or attempted damage to, real or personal property or money on or off campus of:

- (1) The college or state;
- (2) Any student, college officer, employee or organization; or
- (3) Any other person or organization.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-216, filed 7/21/15, effective 8/21/15.]

132Q-10-218

Hazing.

- (1) Conspiring to engage in hazing or participating in hazing of another.

(a) Hazing means any activity expected of someone joining a group (or maintaining full status in a group) that causes or is likely to cause a risk of mental, emotional and/or physical harm, regardless of the person's willingness to participate.

(b) Hazing activities may include the following: Abuse of alcohol during new member activities; striking another person whether by use of any object or one's body; creation of excessive fatigue; physical and/or psychological shock; and morally degrading or humiliating games or activities that create a risk of bodily, emotional, or mental harm.

(c) Hazing does not include practice, training, conditioning and eligibility requirements for customary athletic events such as intramural or club sports and intercollegiate athletics, or other similar contests or competitions, but gratuitous hazing activities occurring as part of such customary athletic event or contest are prohibited.

- (2) Washington state law prohibits hazing which may subject violators to criminal prosecution under

RCW 28B.10.901.

(3) Washington state law (RCW 28B.10.901) provides sanctions for hazing.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-218, filed 7/21/15, effective 8/21/15.]

132Q-10-220

Failure to comply with college officials.

Failure to comply with directions of college officials acting in performance of their duties, including failure to identify oneself to these persons when requested to do so.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-220, filed 7/21/15, effective 8/21/15.]

132Q-10-222

Unauthorized keys or unauthorized entry.

Unauthorized possession, duplication, or use of a key, keycard or other restricted means of access to any college premises, or unauthorized entry to or use of college premises.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-222, filed 7/21/15, effective 8/21/15.]

132Q-10-224

Violation of CCS policy, procedure, rule, regulation, or behavioral contract.

Violation of policies, procedures, rules, or regulations of CCS, its colleges and departments and/or violation of a behavioral contract entered into with CCS, its colleges or departments.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-224, filed 7/21/15, effective 8/21/15.]

132Q-10-226

Violation of law.

Violation of any federal, state, or local law.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-226, filed 7/21/15, effective 8/21/15.]

132Q-10-228

Drugs, controlled substances, and marijuana.

(1) Legend drugs, narcotic drugs, controlled substances: Being observably under the influence of any legend drug, narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, or otherwise using, possessing, delivering, manufacturing, or seeking any such drug or substance, except in accordance with a lawful prescription for that student by a licensed health care professional or as otherwise

expressly permitted by federal, state, or local law, is prohibited. Use, possession and distribution of drug paraphernalia for the drugs and substances identified in this section is prohibited.

(2) Marijuana: While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities. Being observably under the influence of marijuana or the psychoactive compounds found in marijuana, or otherwise using, possessing, selling or delivering any product containing marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, is prohibited.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-228, filed 7/21/15, effective 8/21/15.]

132Q-10-230

Alcohol.

Being under the influence of any alcoholic beverage or otherwise using, possessing, manufacturing, selling, distributing any alcoholic beverages, or public intoxication (except as expressly permitted by law and college rules) are prohibited. Alcoholic beverages may not, in any circumstance, be used by, possessed by, sold, or distributed to any person under twenty-one years of age.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-230, filed 7/21/15, effective 8/21/15.]

132Q-10-231

Use of tobacco, electronic cigarettes and related products.

Use of tobacco, electronic cigarettes and related products are prohibited in all Community Colleges of Spokane facilities and motor pool vehicles with no exception.

(1) Smoking and tobacco use are also prohibited:

(a) Within twenty-five feet of entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking and tobacco use are prohibited; and

(b) Where designated on college premises.

(2) "Smoking" means:

(a) Inhaling, exhaling, burning, carrying or possessing any lighted tobacco product, including cigarettes, cigars, bidi, clove cigarettes, pipe tobacco, and any other lit tobacco products; or

(b) Use of electronic nicotine delivery devices and related products including, but not limited to, electronic cigarettes, vapor cigarettes, hookahs, waterpipes or similar products.

(3) "Tobacco use" means the personal use of:

(a) Any tobacco product, which shall include smoking, as defined in subsection (2) of this section, as well as use of an electronic cigarette or any other device intended to simulate smoking;

(b) Smokeless tobacco, including snuff, chewing tobacco, smokeless pouches, or any other form of loose-leaf, smokeless tobacco.

(4) "Facilities" means a district owned or controlled property, building, or component of that property/building.

(5) "Motor pool vehicles" means vehicles assigned to specific college departments or programs; vehicles used for instructional purposes; vehicles dispatched to staff and students on a reserved, single-use basis; and vehicles assigned to specific faculty and staff.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-231, filed 7/21/15, effective 8/21/15.]

132Q-10-232

Firearms and dangerous weapons.

No student may carry, possess, or use any firearm, explosive (including fireworks), dangerous chemical, or any dangerous weapon on college premises. Paintball guns, air guns, and any other items that shoot projectiles are not permitted on college premises.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-232, filed 7/21/15, effective 8/21/15.]

132Q-10-234

Disorderly conduct.

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. This includes, but is not limited to, conduct that is disorderly, lewd, or indecent, disturbs the peace, or assists or encourages another person to disturb the peace.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-234, filed 7/21/15, effective 8/21/15.]

132Q-10-236

Unauthorized use of electronic or other devices.

Making an audio or video record of any person while on college premises without his/her prior knowledge or without his/her effective consent, when such a recording is likely to cause injury or distress. This includes surreptitiously taking pictures of another person in a gym, locker room, or restroom.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-236, filed 7/21/15, effective 8/21/15.]

132Q-10-238

Abuse or theft of CCS information technology.

Theft or misuse of computer facilities, equipment and information technology resources including:

- (1) Unauthorized entry into a file, message, or other item to use, read, or change the contents, or for any other purpose.
- (2) Unauthorized duplication, transfer, or distribution of a file, message, or other item.
- (3) Unauthorized use of another individual's identification and/or password.
- (4) Unauthorized monitoring of another's email communications directly or through spyware.
- (5) Sending false messages to third parties using another's email identity.
- (6) Use of computing facilities and resources to interfere with the work of another student, faculty member, college official, or others outside of CCS.
- (7) Use of computing facilities and resources to send, display, or print an obscene, harassing, or threatening message, text or image.
- (8) Use of computing facilities and resources to interfere with normal operation of the college computing system, including disrupting electronic communications with spam or by sending a computer virus.
- (9) Use of computing facilities and resources in violation of copyright laws.
- (10) Adding to or otherwise altering the infrastructure of the college's electronic information resources

without authorization.

(11) Any violation of the CCS acceptable use of information technology resources policy.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-238, filed 7/21/15, effective 8/21/15.]

132Q-10-240

Abuse of the student conduct system.

Abuse of the student conduct system, including:

- (1) Failure to obey the notice from a student conduct officer, student conduct board, student conduct administrative panel or college official to appear for a meeting or hearing as part of the student conduct system.
- (2) Falsification, distortion, or misrepresentation of information before a chief student services officer, student conduct officer, student conduct board, student conduct administrative panel or college official during an interview, meeting or hearing.
- (3) Disruption or interference with the orderly conduct of a proceeding before a chief student services officer, student conduct officer, student conduct board, or student conduct administrative panel proceeding.
- (4) Filing a fraudulent complaint or initiating a student conduct proceeding in bad faith.
- (5) Attempting to discourage or interfere with an individual's proper participation in, or use of, the student conduct system.
- (6) Attempting to destroy or alter potential evidence.
- (7) Attempting to intimidate or improperly influence or pressure a witness or a potential witness.
- (8) Attempting to influence the impartiality of any hearing officer, including the chief student services officer, the student conduct officer, any member of a student conduct board, any member of a student conduct administrative panel, any appeals board member, and/or any faculty or staff prior to or during the course of the student conduct board proceeding.
- (9) Harassment (verbal or physical) or intimidation of any hearing officer, including the chief student services officer, the student conduct officer, any member of a student conduct board, any member of a student conduct administrative panel, any appeals board member, and/or any faculty member or staff prior to, during, or after a student conduct code proceeding.
- (10) Failure to comply with the sanction(s) imposed under the standards of conduct for students.
- (11) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-240, filed 7/21/15, effective 8/21/15.]

132Q-10-242

Discrimination.

Discrimination on the basis of race, creed, color, religion, national or ethnic origin, age, sex, marital status, pregnancy, parental status or families with children, status as a mother breastfeeding her child, AIDS/HIV or hepatitis C, honorably discharged veteran status, sexual orientation, gender identity or expression, disability, use of guide dog or service animal by a person with a disability, genetic information, or other legally protected classifications is prohibited in conformity with federal and state laws. Discrimination includes physical, verbal, written conduct (including conduct via social and electronic media), or other conduct that is sufficiently severe, persistent or pervasive, and objectively offensive as to substantially interfere with a reasonable person's ability to study, participate in or benefit from CCS's educational programs, educational opportunities, and/or employment benefits and opportunities such that the person or

group is effectively denied equal access/opportunities based on protected status.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-242, filed 7/21/15, effective 8/21/15.]

132Q-10-243

Sexual harassment.

Sexual harassment is conduct which includes, but is not limited to, engaging in unwelcome gender-based conduct. It may be between members of the opposite sex or between members of the same sex and does not necessarily have to be of a sexual nature if it is based on gender. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic communications. It includes sexual advances, requests for sexual favors, or other conduct of a sexual nature where:

(1) Submission to such conduct is made, either expressly or implicitly a term or condition of an individual's education or employment; or

(2) Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting any individual; or

(3) Such conduct is sufficiently severe, persistent or pervasive, and objectively offensive as to substantially interfere with, disrupt, limit, undermine or deprive a person the ability to participate in or to receive the benefits, services or opportunities of Community Colleges of Spokane's educational programs and activities and/or employment benefits and opportunities.

In determining whether sexual harassment exists, it is immaterial whether the victim resists and suffers the threatened harm or submits and thus avoids the threatened harm.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-243, filed 7/21/15, effective 8/21/15.]

132Q-10-244

Sexually violent conduct.

Sexually violent conduct includes the following: Domestic violence, dating violence, stalking, nonconsensual sexual intercourse, and nonconsensual sexual contact. This conduct also includes, but is not limited to, indecent liberties, sexual exploitation, indecent exposure, sexual exhibitionism, sex-based cyberharassment, prostitution or the solicitation of a prostitute, peeping or other voyeurism, or exceeding the boundaries of consent including allowing others to view consensual sex, the nonconsensual posting or recording of sexual activity, domestic violence, dating violence, and stalking.

(1) **Domestic violence:** (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent body harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking of one family or household member by another family or household member. Pursuant to chapter 10.99 RCW, it also includes, but is not limited to, the following crimes when committed by one family or household member against another: Assault; drive-by shooting; reckless endangerment; coercion; burglary; criminal trespass, malicious mischief; kidnapping; unlawful imprisonment; and violation of a restraining order, no-contact order or protection order.

(2) **Dating violence** (aka relationship violence) is a type of domestic violence, except the acts are committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(3) **Stalking** is intentional and repeated harassment or repeated following of another person, which places that person in reasonable fear that the stalker intends to injure the person, another person, or the property of the person or another person, and the stalker either intends to frighten, intimidate, or harass the person, or knows or reasonably should know that the person is frightened, intimidated or harassed, even if

the stalker lacks such an intent.

(4) **Cyberstalking** is when a person, with the intent to harass, intimidate, torment or embarrass any other person makes an electronic communication including, but not limited to, electronic mail, internet-based communications (social media sites and electronic bill boards), pager service, or instant messaging using (a) any lewd, lascivious, indecent, or obscene words, images or language, or suggesting the commission of any lewd or lascivious act; (b) anonymously or repeatedly whether or not conversation occurs; or (c) threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

(5) **Nonconsensual sexual intercourse** means any penetration; of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex without consent and/or by force.

(6) **Nonconsensual sexual contact** means any intentional touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party, however slight, 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 bodily contact in a sexual manner.

(7) **Indecent liberties** means knowingly causing sexual contact with a person by forcible compulsion or when the person is incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness. Sexual contact is defined as any nonconsensual touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party.

(8) **Consent** means the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Any 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. Consent cannot be given by an individual who is: (a) Asleep or mentally or physically incapacitated, either through the effect of drugs, alcohol, or for any other reason; or (b) under the lawful age to provide legal consent; or (c) has an intellectual or other disability which prevents him or her from having the capacity to consent; or (d) under duress, threat, coercion or force. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual conduct.

(9) **Voyeurism** is arousing or gratifying sexual desire by viewing, photographing, or filming another person without that person's knowledge and consent and/or while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy. It also includes the distribution of a recording of sexual activity.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-244, filed 7/21/15, effective 8/21/15.]

132Q-10-246

Harassment.

Conduct by any means that is unwelcome, sufficiently severe, pervasive or persistent, and objectively offensive as to substantially interfere, undermine or deprive a reasonable person the ability to work, study, or participate in the activities of the college. Harassing conduct may include physical conduct, verbal, nonverbal, written, social media, and electronic communications.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-246, filed 7/21/15, effective 8/21/15.]

132Q-10-250

Reckless endangerment.

Engaging in conduct that creates an unreasonable risk of harm to another person or property including 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 or property.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-250, filed 7/21/15, effective 8/21/15.]

132Q-10-252

Trespassing.

Any person who has been given written notice, served by a college official, excluding him or her from college property is not licensed, invited, or otherwise privileged to enter or remain on college property, unless given explicit written permission by a college official.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-252, filed 7/21/15, effective 8/21/15.]

132Q-10-254

Violation of a disciplinary sanction.

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

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-254, filed 7/21/15, effective 8/21/15.]

132Q-10-255

Aiding others.

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

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-255, filed 7/21/15, effective 8/21/15.]

132Q-10-305

Process to file complaints.

(1) General complaints – Individuals may file with the student conduct officer a written complaint, a student conduct incident report (SCIR), against a student or student organization for alleged violation(s) of the standards of conduct for students specified in WAC 132Q-10-130 through 132Q-10-240, 132Q-10-246 and 132Q-10-250 through 132Q-10-255. Complaints are to be submitted as soon as possible after the event takes place, preferably within thirty calendar days after the event. A copy of an SCIR can be obtained from the office of student conduct, the office of the Title IX coordinator, or the office of campus safety, on both the SCC and SFCC campuses. The SCIR is also available online at <http://www.ccs.spokane.edu/Forms/SCC-Forms/Student-Svcs/ccs-5761.aspx>. SCIRs must be submitted to:

Student Conduct Officer SCC

Spokane Community College
1810 N. Greene St., MS 2061
Room 125
Bldg. 6, Lair Student Center
Phone: 509-533-8657

Student Conduct Officer SFCC
Spokane Falls Community College
3410 W. Fort George Wright Dr., MS 3010
Room 140
Bldg. 17, Student Union Building
Phone: 509-533-3570

Title IX Coordinator SCC
Spokane Community College
1810 N. Greene St., MS 2061
Room 218
Lair, Building 6
Fax: 509-533-8444
Phone: 509-533-7015

Title IX Coordinator SFCC
Spokane Falls Community College
3410 W. Fort George Wright Dr., MS 3010
Administration Offices Room 225
Falls Gateway Building, Building 30
Fax: 509-533-3225
Phone: 509-533-3514

Office of Campus Safety SCC
1810 N. Greene St., MS 2010
Room 149A
Main Building, Building 1
Phone: 509-533-7287

Office of Campus Safety SFCC
3410 W. Fort George Wright Dr., MS 3174
Room 127
Student Union Building, Building 17
Phone: 509-533-3407

(2) Sexually violent conduct, discrimination, and sexual harassment complaints. Individuals may file complaints of sexually violent conduct as defined in WAC 132Q-10-105(18) and further detailed in WAC 132Q-10-244; complaints of discrimination as set forth in WAC 132Q-10-242; and sexual harassment as set forth in WAC 132Q-10-243 to the Title IX coordinator at the appropriate address listed below. Complaints are to be submitted as soon as possible after the event takes place, preferably within thirty calendar days after the event. Complaints may be submitted by using a Student Conduct Incident Report (SCIR) form. If the complaint is against the Title IX coordinator, the complainant should report the matter to the Spokane Community College president's office or Spokane Falls Community College president's office for referral to an alternate designee. A copy of the SCIR can be obtained from the office of student conduct, the office of the Title IX coordinator, or the office of campus safety, on both the SCC and SFCC campuses. A copy of the SCIR form is also available online at <http://www.ccs.spokane.edu/Forms/SCC-Forms/Student-Svcs/ccs-5761.aspx>.

Student Conduct Officer SCC
Spokane Community College
1810 N. Greene St., MS 2061

Room 125
Bldg. 6, Lair Student Center
Phone: 509-533-8657

Student Conduct Officer SFCC
Spokane Falls Community College
3410 W. Fort George Wright Dr., MS 3010
Room 140
Bldg. 17, Student Union Building
Phone: 509-533-3570

Title IX Coordinator SCC
Spokane Community College
1810 N. Greene St., MS 2061
Room 218
Lair, Building 6
Fax: 509-533-8444
Phone: 509-533-7015

Title IX Coordinator SFCC
Spokane Falls Community College
3410 W. Fort George Wright Dr., MS 3010
Administration Offices Room 225
Falls Gateway Building, Building 30
Fax: 509-533-3225
Phone: 509-533-3514

Office of Campus Safety SCC
1810 N. Greene St., MS 2010
Room 149A
Main Building, Building 1
Phone: 509-533-7287

Office of Campus Safety SFCC
3410 W. Fort George Wright Dr., MS 3174
Room 127
Student Union Building, Building 17
Phone: 509-533-3407

President
Spokane Community College
1810 N. Greene St., MS 2150
Spokane, WA 99217-5399
Fax: 509-533-7321

President
Spokane Falls Community College
3410 W. Fort George Wright Dr., MS 3010
Spokane, WA 99224-5288
Fax: 509-533-3225

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-305, filed 7/21/15, effective 8/21/15.]

132Q-10-306

Initial review of complaints.

(1) General conduct complaints. The student conduct officer or his/her designee will conduct an initial assessment of a complaint to determine whether it alleges conduct that may be prohibited by the standards of conduct for students. If the initial assessment indicates that the matter involves sexual misconduct, the student conduct officer will forward the complaint to a chief student services officer/Title IX coordinator for review or if the student conduct officer believes he/she has a conflict of interest or is the subject of the complaint, the student conduct officer will forward the complaint to the chief student services officer who will conduct the initial assessment or designate another person to serve as the student conduct officer relative to that complaint. The student conduct officer reviews general conduct complaints and determines whether the complaint, if as alleged were true would constitute a violation of any of the standards of conduct for students. If the student conduct officer determines the alleged conduct would constitute a violation, it is deemed to have merit warranting further review. If the complaint does not have merit the student conduct officer will dismiss the complaint. If the complaint is deemed to have merit, the student conduct officer then would conduct a further assessment pursuant to WAC 132Q-10-320 to determine if an interim suspension is warranted.

(2) Sexually violent conduct, discrimination and sexual harassment complaints. The chief student services officer/Title IX coordinator will conduct an initial assessment of the complaint to determine whether it alleges conduct that may be prohibited in WAC 132Q-10-242 through 132Q-10-244 of the standards of conduct for students, CCS policies, and/or CCS procedures. If the chief student services officer/Title IX coordinator has a conflict of interest or is the subject of the complaint, the college president, shall upon request and when feasible designate another person to serve as the chief student services officer/Title IX coordinator relative to that complaint. If the alleged conduct would constitute a violation, it is deemed to have merit warranting further review. If the complaint does not have merit the chief student services officer/Title IX coordinator will dismiss the complaint. If the complaint is deemed to have merit, the chief student services officer/Title IX coordinator will conduct a further assessment pursuant to WAC 132Q-10-320 to determine if an interim suspension or other interim measures are warranted. Interim measures may include, but are not limited to, notice to complainant of his or her options to avoid contact with the accused student, to receive options for and available assistance in changing academic and extracurricular activities, and/or modification of complainant's transportation, working, and dining situation, as appropriate.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-306, filed 7/21/15, effective 8/21/15.]

132Q-10-310

Disposition of misconduct complaints by the student conduct officer.

If a student conduct officer determines a complaint of general misconduct may have merit, the student conduct officer will schedule an initial meeting with the student to discuss the content of the complaint, the range of potential sanctions, and the applicable CCS code of conduct hearing procedures.

(1) If the student fails to appear for the meeting and the range of sanctions for the alleged general misconduct do not include a suspension in excess of ten instructional days or a dismissal, the matter will be heard as a brief adjudicative proceeding and the student conduct officer may:

(a) Retain the matter for a brief adjudicative proceeding, determination of findings, conclusions, and sanctions; or

(b) Send the matter to the student conduct board for a brief adjudicative proceeding in accordance with the provisions of this code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC) including a determination of findings, conclusions, and sanctions.

(2) If an agreed upon resolution cannot be reached or if the student fails to appear for the meeting and the range of sanctions for the alleged general misconduct include a suspension in excess of ten instructional days or a dismissal, the student conduct officer will send the matter to the student conduct administrative panel for a full adjudicative proceeding in accordance with the provisions of this code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC)

including a hearing, determination of findings, conclusions, and sanctions. To the extent there is a conflict between the standards of conduct for students and the model rules, this standards of conduct for students code shall prevail.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-310, filed 5/18/17, effective 6/18/17.
Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-310, filed 7/21/15, effective 8/21/15.]

132Q-10-315

Notice to the accused student of complaint.

(1) All general misconduct and sexual misconduct complaints deemed by the chief student service officer/Title IX coordinator or student conduct officer to have merit are presented by the student conduct officer to the accused student in written form, in person, by regular mail or electronic mail. Notice by mail is sent to the student's last known local address. If the student no longer is enrolled at the time notice is sent, the notice is sent to the student's permanent address. The student is responsible for providing and keeping the college updated of his/her current email and mailing addresses.

(2) The written notice shall include:

(a) The official name and reference number of the proceeding and notice that the hearing is to be held pursuant to these standards of conduct for students under the jurisdiction provided by WAC 132Q-10-120.

(b) The factual details of the complaint, the policy, procedure, rule or standard of conduct allegedly violated.

(c) The approximate time and place of the alleged act.

(d) The range of possible sanctions for the alleged act.

(e) The date, time, and place of the proceeding. A time for the disciplinary proceeding is set seven to fourteen calendar days after the student has been notified unless waived by all parties. If the chair of the student conduct board, the chair of the student administrative panel or the accused student wish to alter the notice requirements, he/she must submit a written request to the student conduct officer. Time limits for notice may be shortened by the student conduct officer if the parties to the proceeding agree and also may be continued to a later time for good cause.

(f) Notification as to whether the student conduct officer, the student conduct board or the student administrative panel was assigned the case and the names, mailing address, and phone number of the designated presiding officer(s).

(g) Notification as to the mailing address and phone number of the office intended to represent the college in the proceeding.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-315, filed 5/18/17, effective 6/18/17.
Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-315, filed 7/21/15, effective 8/21/15.]

132Q-10-318

Student conduct officer disciplinary proceedings.

Brief adjudicative disciplinary proceedings with the student conduct officer are conducted as follows:

(1) Meetings will not be conducted in public.

(2) Admission of any other person to the hearing is at the discretion of the student conduct officer.

(3) Respondents have the right to be assisted by an advisor they choose, at their own expense. The respondents are responsible for presenting their own information. Advisors are not permitted to address the student conduct officer or participate directly in the meeting. An advisor may communicate only with the

person they are advising. The student conduct officer may call recesses to facilitate this communication. A respondent should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing. Delays are not normally allowed due to the scheduling conflicts of an advisor.

(4) The respondent may provide sworn written statements from witnesses and other documents or information that he/she believes is relevant to the case. Forms for the written statements are available from the student conduct officer or online.

(5) The student conduct officer determines which records, exhibits and written statements may be accepted as information for consideration.

(6) There is a single verbatim record, such as a recording or transcript, of the information gathering portion of hearings. The record is the property of the college.

(7) If the student does not appear for the hearing after proper notice has been provided, the student conduct officer will consider the complaint, absent the student, and enter a decision regarding the complaint including appropriate disciplinary sanctions.

(8) The student conduct officer will notify the student in writing, in person, by mail or electronic mail of his or her decision. Notice of the decision is sent within ten calendar days from the hearing date. If the college is not in session, this period may be reasonably extended.

(9) The written notice of the decision will include the reasons for the decision, the sanctions, and information about the appeal process. The student conduct officer may notify the student prior to receipt of the formal written notice. The notice is sent to the student's last known mailing address or email address.

(10) The burden of proof that guides the student conduct officer's decision is a preponderance of evidence, which is whether it is more likely than not the accused student violated the standards of conduct for students. The student conduct officer includes in his/her written notice of the decision the findings and conclusions of all material issues of law, including which, if any, provision of the standards of conduct for students were violated. Findings based substantially on the credibility of evidence shall be so identified.

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

(a) Terminate the proceeding, exonerating the student;

(b) Dismiss the case after providing appropriate counseling and admonishment to the student. Such action is final and is not subject to review on appeal;

(c) Issue a verbal warning to the student directly. Such action is final and is not subject to review on appeal;

(d) Impose sanctions provided for in WAC 132Q-10-400 such as probation, loss of privileges, restitution or compensation, fines, college suspension of ten instructional days or less, and revocation of admission. Such actions are subject to review on appeal as provided in this chapter;

(e) Refer the matter directly to the student conduct board or the student conduct administrative panel for such action as the panel deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct board or the chair of the student conduct administrative panel, with a copy served on the accused student.

(12) A referral to the student conduct board may be used in instances where the alleged misconduct is novel or controversial and the student conduct officer believes input from the larger campus community would be beneficial. A referral to the student administrative panel should be used in instances where new evidence comes forth suggesting that discipline of more than ten instructional days or dismissal/expulsion is appropriate or new evidence comes forth suggesting evidence of sexual misconduct. It may also be warranted when the immediate alleged misconduct, by itself, is not severe enough to warrant an expulsion or suspension in excess of ten instructional days, but may trigger a deferred suspension or expulsion that was imposed during an earlier disciplinary proceeding.

(13) The written decision is the college's initial order. Appeals are governed by WAC 132Q-10-335. A referral of a matter directly to the student conduct board or to the administrative panel does not constitute a written decision.

(14) If the respondent does not appeal the student conduct officer's decision within twenty calendar days from the date of the decision, it becomes the college's final order after twenty-one calendar days.

132Q-10-320

Interim suspension and other restrictions.

(1) In certain circumstances, the chief student services officer/Title IX coordinator, or his/her designee may impose an interim suspension from college or other restrictions prior to the proceedings being conducted pursuant to WAC 132Q-10-310 or being conducted pursuant to WAC 132Q-10-502. Interim suspension or other restrictions may be imposed only if there is reasonable cause to believe that the accused student:

- (a) Has violated a provision of the standards of conduct for students;
- (b) In situations involving an immediate danger to the health, safety, or welfare of members of CCS or the public at large;
- (c) To ensure the student's own physical safety and well-being; or
- (d) If the student poses an ongoing threat of disruption to, or interference with, the operations of the college.

(2) During the interim period, a student may be denied access to classes, activities and privileges, as the student conduct officer determines while an investigation and/or formal disciplinary procedures are pending.

(3) Notice.

(a) Any student who has been suspended on an interim basis based on general misconduct or sexual misconduct under these standards of conduct for students shall be served with written notice or oral notice of the interim suspension by the chief student services officer/Title IX coordinator, or his/her designee. If oral notice is given, a written notification shall be provided to the student within two business days of the oral notice in person, by regular mail or electronic mail. Written notice by mail is sent to the student's last known address. The student is responsible for providing the college the current address.

(b) The notice shall be entitled "Notice of Interim Suspension" and shall include the reasons for imposing the interim suspension, including reference to the provisions of the standards of conduct for students that have been allegedly violated, the date, time and location where student must appear for a hearing on the interim suspension; and the conditions, if any, under which the student may physically access the campus or communicate with members of the campus community.

(4) The student conduct officer shall conduct a hearing on the interim suspension as soon as practicable after imposition of the interim suspension. If the student has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the accused student shall be considered trespassing and subject to arrest for criminal trespass if the accused student enters the college campus other than to meet with the student conduct officer, or to attend a disciplinary hearing. The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension. A full hearing before the student conduct officer, the student conduct board or the student conduct administrative panel may be convened in a timely manner which may negate the need for an interim suspension hearing.

(5) In the event the alleged misconduct which is the basis for interim suspension involves claims of sexually violent conduct, both the accused student and the complainant shall be notified of the interim suspension. Please refer to WAC 132Q-10-501 and 132Q-10-502 which outline additional and supplemental procedural requirements for sexually violent conduct allegations and matters. In no event shall mediation be used to resolve complaints involving allegation of sexual violence.

(6) The issue before the student conduct officer during the interim suspension hearing is whether there is probable cause to believe that interim suspension is necessary and/or whether other less severe interim restrictions are appropriate. For the purpose of this section, probable cause means sufficient facts to lead a reasonable person to believe that the elements necessary for imposing an interim suspension have

been satisfied. The student shall be given an opportunity to explain why interim suspension is or is not necessary either through oral or written statement or a combination of oral and written statements.

(7) If the notice of interim suspension proceedings has been served upon the accused student in accordance with these rules and the student fails to appear at the designated hearing time, the student conduct officer may order that the interim suspension remain in place pending imposition of final disciplinary action.

(8) The student conduct officer shall issue a written order within two instructional days of the hearing, which shall include a brief statement of findings of fact and conclusions, the policy reasons justifying imposition of the interim suspension, and setting forth the student conduct officer's decision in the matter. If the interim suspension is upheld and/or other restrictions are imposed, the order shall inform the student of the duration of the interim suspension or the nature of the restrictions, conditions under which the interim suspension may be terminated or modified, and procedures by which the order may be appealed.

(9) To the extent permissible under law, the student conduct officer shall provide a copy of the order to all persons or offices that may be bound or protected by it including the complainant.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-320, filed 5/18/17, effective 6/18/17.
Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-320, filed 7/21/15, effective 8/21/15.]

132Q-10-325

Student conduct board proceedings.

In cases in which the student conduct officer determines to refer a matter directly to the student conduct board for a hearing, the following procedures apply:

(1) The student conduct officer shall serve all parties, and student conduct board members with written notice of the hearing seven to ten calendar days prior to the hearing date, time and location, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The student conduct officer may shorten this notice period if all parties agree, and also may continue the hearing to a later time for good cause.

(2) The student conduct officer is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

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

(4) The student conduct officer may provide to the board members in advance of the hearing copies of: (a) The student conduct officer's notice of complaint and referral; and (b) any documents provided in response by the accused student. If doing so, however, the student conduct officer should remind the committee members that these documents are not evidence of any facts they may allege.

(5) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

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

(7) The complainant, the accused student, and their respective advisors may attend the portion of the hearing at which information is received, but may not attend the board's deliberations. Admission of any other person to the hearing is at the discretion of the student conduct board chair.

(8) In circumstances involving more than one accused student, the student conduct officer may permit joint or separate hearings.

(9) The accused student has the right to be assisted by an advisor they choose, at their own expense.

The accused student is responsible for presenting his/her own information. Advisors are not permitted to address the board or participate directly in the hearing. An advisor may communicate only with the person they are advising. The board chair may call recesses to facilitate this communication. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing. Delays are not normally allowed due to the scheduling conflicts of an advisor.

(10) The accused student, the student conduct officer, and the board chair may arrange for witnesses to present pertinent information to the student conduct board. Witnesses may provide written statements in lieu of their attendance at the hearing. The accused student is responsible for informing his/her witnesses of the time and place of the hearing. Witnesses provide information to, and answer questions from, the student conduct board. To preserve the educational tone of the hearing and to avoid an adversarial environment, questions are directed to the chair, rather than to the witness directly. Questions concerning whether potential information may be received are resolved by the chair. The record will reflect the questions that were submitted and the rationale for disallowing any questions. All testimony and written statements shall be given under oath or affirmation.

(11) The board chair determines which records, exhibits and written statements may be accepted as information for consideration by the board, except as overridden by majority vote of the board.

(12) Formal rules of process, procedure and technical rules of evidence, such as are applied in criminal or civil court, are not used in board proceedings.

(13) Questions related to the order of the proceedings are determined by the board chair.

(14) If an accused student, with notice, does not appear before a student conduct board hearing, the information in support of the complaint is presented and considered in the absence of the accused student.

(15) The board chair shall cause the hearing to be recorded by a method that he/she selects in accordance with RCW 34.05.449. Board deliberations are not recorded. The record or transcript is the property of the college. That recording, transcript or a copy, shall be made available to the parties upon request. The board 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 the respondent. Other recording shall also be permitted in accordance with WAC 10-08-190.

(16) The board chair may accommodate concerns for the personal safety, well-being or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means.

(17) The student conduct officer (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(18) At the conclusion of the hearing, the board shall permit the parties to make closing arguments in whatever form it wishes to receive them. The board may also permit each party to propose findings, conclusions, and/or an order for its consideration.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-325, filed 5/18/17, effective 6/18/17.

Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-325, filed 7/21/15, effective 8/21/15.]

132Q-10-330

Student conduct board decision and notification.

Procedures for student conduct board proceedings:

(1) At the conclusion of the hearings on conduct matters, including closing arguments and deliberations, the student conduct board determines by majority vote whether the accused student has violated the standards of conduct for students. If so, the board determines and imposes the appropriate sanctions from WAC 132Q-10-400.

(2) The burden of proof that guides the board's decision is the preponderance of evidence, whether it is more likely than not that the accused student violated the standards of conduct for students.

(3) The student conduct officer notifies the parties, in writing, in person, by mail or electronic mail of the board's decision. Written notice is sent within ten calendar days from the hearing date. If the college is not in session, this period may be reasonably extended. The student conduct board includes in the written notice of the decision the findings and conclusions on all material issues of law, including which, if any, provisions of the standards of conduct for students were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified, the disciplinary sanctions, and information about the appeal process. The board's initial order shall also include a determination on appropriate discipline, if any. The student conduct officer may notify the student prior to receipt of the formal written notice. The notice, if sent by mail, is sent to the student's last known address.

(4) The written decision is the college's initial order. Appeals are governed by WAC 132Q-10-335.

(5) If the student does not appeal the board's decision within twenty calendar days from the date of the decision, it becomes the college's final order after twenty-one calendar days.

(6) The committee chair shall promptly transmit a copy of the order and the record of the board's proceedings to the appeals board.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-330, filed 5/18/17, effective 6/18/17. Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-330, filed 7/21/15, effective 8/21/15.]

132Q-10-332

Student conduct administrative panel proceedings.

The student conduct administrative panel will conduct full adjudicative proceeding in accordance with the provisions of this standards of conduct for students code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC) including a hearing, determination of findings, conclusions, and sanctions. To the extent there is a conflict between the standards of conduct for students and the model rules, this standards of conduct for students code shall prevail. The following procedures apply:

(1) The student conduct officer shall serve all parties, and student conduct administrative panel members with written notice of the hearing not less than seven calendar days or more than ten calendar days prior to the hearing date, time and location, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The student conduct officer may shorten this notice period if all parties agree, and also may continue the hearing to a later time for good cause.

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

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

(4) The student conduct officer may provide to the panel members in advance of the hearing copies of: (a) The student conduct officers' notice of complaint and referral; and (b) documents provided by the accused student in response to the complaint. If doing so, however, the chair should remind the panel members that these documents are not evidence of any facts they may allege.

(5) Communications between panel members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(6) An accused student may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the

attorney's identity and participation is filed with both the panel chair with a copy to the student conduct officer. The panel may be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

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

(8) In circumstances involving more than one accused student, the student conduct officer may permit joint or separate hearings.

(9) The president of the college or his/her designee, the chair of the student conduct administrative panel, the administrators assigned to the student conduct administrative panel, deans, and/or the student conduct officer have the authority to issue subpoenas.

(10) The accused student and the student conduct officer may arrange for witnesses to present pertinent information to the student conduct administrative panel. The accused student is responsible for informing his/her witnesses of the time and place of the hearing.

(11) The student conduct officer, upon written request, will provide reasonable assistance to the accused student in obtaining relevant and admissible evidence that is within the college's control.

(12) All testimony and written statements shall be given under oath or affirmation.

(13) The panel chair determines which records, exhibits and written statements may be accepted as information for consideration by the panel consistent with RCW 34.05.452. Evidence, including hearsay evidence, is admissible if it is the kind of evidence on which reasonably prudent persons are accustomed to rely on in the conduct of their affairs. Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The panel chair may exclude evidence that is irrelevant, immaterial or unduly repetitious. The panel chair will ensure that the hearing record reflects the basis for exclusion of any evidence.

(14) The chair of the student conduct administrative panel shall decide all procedural questions and make rulings on the admissibility of evidence, motions, objections, and on challenges to the impartiality of board members, unless a hearing examiner is appointed as provided below. The Washington rules of evidence shall serve as guidelines for those rulings on the admissibility of evidence.

(15) Questions related to the order of the proceedings are also determined by the student conduct administrative panel chair.

(16) If an accused student, with notice, does not appear before a student conduct administrative panel hearing, the information in support of the complaint is presented and considered in the absence of the accused student.

(17) The panel chair may accommodate concerns for the personal safety, well-being or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means. In making such accommodations, the rights of the other parties must not be prejudiced and must have the opportunity to participate effectively in, to hear, and, if technically economically feasible, to see the entire proceeding while it is taking place.

(18) The panel chair shall cause the hearing to be recorded by a method that he/she selects in accordance with RCW 34.05.449. Panel deliberations are not recorded. The record or transcript is the property of the college. That recording, transcript or a copy, shall be made available to the parties upon request. The panel 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 the respondent. Other recording shall also be permitted in accordance with WAC 10-08-190.

(19) The student conduct officer (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(20) At the conclusion of the hearing, the panel shall permit the parties to make closing arguments in whatever form it wishes to receive them. The panel may also permit each party to propose findings, conclusions, and/or an order for its consideration.

(21) Conduct matters that involve allegations of sexually violent conduct as defined in WAC 132Q-10-105(18) and further detailed in WAC 132Q-10-244 shall also utilize the supplemental hearing procedures of WAC 132Q-10-501 through 132Q-10-503. The terms of the supplemental procedures will prevail in the event of any discrepancy between this provision and the provisions of the supplemental procedures.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-332, filed 5/18/17, effective 6/18/17.
Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-332, filed 7/21/15, effective 8/21/15.]

132Q-10-333

Student conduct administrative panel decision and notification.

(1) At the conclusion of the hearings on conduct matters, including closing arguments, and deliberations, the student conduct administrative panel determines by majority vote whether the accused student has violated the standards of conduct for students. If so, the board determines and imposes the appropriate sanctions from WAC 132Q-10-400.

(2) The burden of proof that guides the panel's decision is the preponderance of evidence, whether it is more likely than not that the accused student violated the standards of conduct for students.

(3) The student conduct officer notifies the parties, and advisors who have appeared, in writing, in person, by mail or electronic mail of the panel's decision. Written notice is sent within ten calendar days from the hearing date. If the college is not in session, this period may be reasonably extended. The board includes in the written notice of the decision the findings and conclusions on all material issues of law, including which, if any, provision of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified, the disciplinary sanctions, and information about the appeal process. The board's initial order shall also include a determination on appropriate discipline, if any. The student conduct officer may notify the student prior to receipt of the formal written notice. The notice, if sent by mail, is sent to the student's last known address.

(4) The written decision is the college's initial order. Appeals are governed by WAC 132Q-10-335.

(5) If the student does not appeal the board's decision within twenty calendar days from the date of the decision, it becomes the college's final order after twenty-one calendar days.

(6) The committee chair shall promptly transmit a copy of the order and the record of the panel's proceedings to the appeals board.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-333, filed 7/21/15, effective 8/21/15.]

132Q-10-335

Appeals of misconduct—Review of decision.

(1) An initial decision reached by the student conduct board, the student conduct officer, or the student conduct administrative panel may be appealed by the accused student to the appeals board. The written appeal shall be filed with the chief student services officer within twenty calendar days of the date of the decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the initial decision of student conduct officer, the student conduct board, or the student conduct administrative panel shall be deemed final. The student's written appeal must include a brief statement explaining why he/she is seeking review. The statement should identify whether any of the specific findings of fact and/or conclusions of law in the initial order are wrong and must contain argument regarding why the appeal should be granted.

(2) The parties to an appeal shall be the respondent and either the student conduct officer, the student conduct board, or the student conduct administrative panel.

(3) An accused student, who timely appeals a disciplinary action, has a right to a prompt, fair, and

impartial hearing as provided in these procedures.

(4) Appeals of disciplinary matters involving allegations of sexually violent conduct as defined in WAC 132Q-10-105(18) and further detailed in WAC 132Q-10-244 shall also include the supplemental appeal procedures set forth in WAC 132Q-10-501 through 132Q-10-503.

(5) Appeals are reviewed by the appeals board. Except as required to explain the basis of new information, an appeal is limited to a review of the student's written appeal which includes his/her written argument, a verbatim record of the hearing record with the student conduct officer, the student conduct board, or the student conduct administrative panel and supporting documents for one or more of the following purposes:

(a) Determine whether the initial disciplinary 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 those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice is evident.

(b) Determine whether the decision is supported by the evidence.

(c) Determine whether the sanctions imposed are appropriate for the violation which the student was found to have committed.

(d) 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 hearing with the student conduct officer, the student conduct board, or the student conduct administrative panel.

(6) The appeal board shall not engage in "ex parte" communication with any of the parties regarding an appeal.

(7) The appeal board shall review the record and make one of the following determinations:

(a) Affirm the decision and uphold sanctions; or

(b) Reverse the decision and dismiss; or

(c) Affirm the decision and modify the sanctions imposed; or

(d) Remand for a full hearing before the student conduct administrative panel.

(8) The student is notified of the appeal board's decision within twenty calendar days from the date of the appeal letter. If the college is not in session, this period may be reasonably extended. The appeal board's decision, unless it is a decision to remand for a full hearing before the student conduct administrative panel, is the college's final order.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-335, filed 7/21/15, effective 8/21/15.]

132Q-10-400

Disciplinary sanctions.

(1) The following sanctions may be imposed by the chief student services officer, student conduct officer, the student conduct board, the student conduct administrative panel, or the appeals board on a student found to have violated the standards of conduct for students.

(a) Warning. An oral statement to a student that there is a violation and that continued violation may be cause for further discipline. Warnings are not subject to appeal.

(b) Reprimand. A notice in writing to the student that the student has violated one or more provisions of the standards of conduct for students, a disciplinary record has been created, and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) 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. A student who is on disciplinary probation may be deemed "not in good standing" with the college. If so, the student shall be subject to the following restrictions:

- (i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.
- (ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.
- (d) Loss of privileges. Denial of specified privileges for a designated period of time.
- (e) Restitution or compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- (f) Education. The college may require the student to complete an educational project or attend sessions, at the student's expense, which address the student's behavior such as anger management or counseling.
- (g) Fines may be imposed by the college.
- (h) College suspension for a period not to exceed ten instructional days. Separation of the student from the college for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. There will be no refund of tuition or fees for the quarter in which the action is taken.
- (i) 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.
- (j) 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.
- (k) No trespass order. A student may be restricted from college property based on his/her misconduct.
- (l) Assessment. The student may be required to have an assessment, such as alcohol/drug or anger management, by a certified professional, and complete the recommended treatment.
- (m) 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.
- (n) 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.
- (o) No contact order. A prohibition of direct or indirect physical, verbal, and/or written contact with another individual or group.

(2) The following additional sanctions may be issued by the chief student services officer, student conduct officer, the student conduct administrative panel, or the appeals board on a student found to have violated the standards of conduct for students:

- (a) College suspension for a period that exceeds ten academic days. Separation of the student from the college for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. There will be no refund of tuition or fees for the quarter in which the action is taken.
- (b) College expulsion. Permanent separation of the student from the college. The revocation of all rights and privileges of membership in the college community and exclusion from the campus, CCS-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which action is taken.

(3) A sanction may be made effective for the entire district or the student's college. If only to the student's college, the chief student services officer at the other colleges may enforce the disciplinary action at their respective college.

(4) More than one of the sanctions listed in subsection (1) of this section may be imposed for any single violation.

(5) 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.

(6) If a student's behavior is found to have been motivated by another's race, creed, color, religion, national or ethnic origin, age, sex, gender identity or expression, or disability, use of a guide dog or service animal by a person with a disability, veteran's status, or genetic information, such finding is considered an aggravating factor in determining a sanction for such conduct.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-400, filed 7/21/15, effective 8/21/15.]

132Q-10-500

Classroom misconduct and authority to suspend for up to three days.

(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 program, up to three instructional days, if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, program or the learning and teaching environment. The faculty member or college administrator shall report this suspension to the student conduct officer who may set conditions for the student upon return to the class or program.

(4) The student may appeal the classroom suspension to the chief student services officer who may authorize an earlier return by the student only after consultation with the faculty member or appropriate administrator. The chief student services officer's decision is final.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-500, filed 7/21/15, effective 8/21/15.]

132Q-10-501

Additional procedural requirements for sexually violent conduct matters.

In the event the alleged misconduct involves claims of sexually violent conduct, additional procedures are required by federal law. Both the accused student and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the interim suspension process and disciplinary proceeding process and to appeal the chief student services officer's or student conduct administrative panel's disciplinary order.

Application of the supplemental procedures for allegations of sexually violent conduct is limited to student conduct code proceedings involving allegations of sexually violent conduct. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132Q-10-305 through 132Q-10-318 and 132Q-10-325 through 132Q-10-500. In the event of conflict between the supplemental sexually violent conduct procedures, interim suspension and other restrictions procedures and the student disciplinary procedures, the sexually violent conduct procedures shall prevail.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-501, filed 5/18/17, effective 6/18/17.
Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-501, filed 7/21/15, effective 8/21/15.]

132Q-10-502

Supplemental procedures for allegations of sexually violent conduct.

(1) Reports of alleged sexually violent conduct by a student submitted pursuant to WAC 132Q-10-305(2) shall be referred to the Title IX coordinator for an initial assessment. If an investigation is deemed warranted it shall be completed in a timely manner as defined by administrative procedure 3.30.01.

(a) If after a review, the Title IX coordinator determines that the facts as alleged would not constitute a violation of Title IX, the Title IX coordinator may close the file.

(b) If after an initial review, the Title IX coordinator determines that the facts as alleged may constitute a violation of Title IX, the coordinator or his or her designee will order an investigation.

(c) If after an initial review, the Title IX coordinator determines that the facts as alleged would not constitute a violation of Title IX, but may constitute a violation of other provisions of the standards of conduct for students, the coordinator may refer the matter to the student conduct officer to review and process.

(d) If the Title IX coordinator determines an investigation is not warranted on a sexually violent conduct report, the student conduct officer will make reasonable efforts to meet with the complainant and accused student individually to discuss the outcome.

(e) If an investigation is conducted based on a sexually violent conduct report, the Title IX coordinator will make a reasonable effort to meet with the complainant and accused student separately to discuss the results of the investigation and possible protective restrictions or conditions that may be imposed on the accused student. Please refer to WAC 132Q-10-503 for the appeal rights of both parties.

(2) Respondents may have interim restrictions placed on them as outlined in WAC 132Q-10-320.

(3) If the Title IX coordinator or his/her designee determines that the investigative report contains facts that demonstrate a violation of the standards of conduct for students, but not a violation of the sexually violent conduct provisions, then he/she will refer the matter to the appropriate student conduct officer for disciplinary proceedings under these regulations.

(4) Informal dispute resolution shall not be used to resolve sexual misconduct complaints.

(5) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college community or its legal duty to investigate and process sexual harassment and sexual violence complaints.

(6) The complainant and respondent have the same rights regarding advisors and witnesses as set forth in WAC 132Q-10-332. The complainant and respondent may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair and copy the chief student services officer. The chief student services officer will provide a copy of the notice of hearing to the complainant.

(7) The complainant may arrange for witnesses to present pertinent information to the student conduct administrative panel. The complainant is responsible for informing his/her witnesses of the time and place of the hearing.

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

(9) During the proceedings, complainant and accused student shall not directly question or cross examine one another. All questions shall be directed to the chair, who will act as an intermediary and pose questions on the parties' behalf. The student conduct administrative panel chair may overrule certain questions on the basis that they are irrelevant, immaterial or unduly repetitious; seek information that is protected on constitutional or statutory grounds or seek information that is subject to evidentiary privilege as recognized in the courts of this state. The record will reflect the questions that were submitted and the rationale for disallowing any questions.

(10) Hearings involving sexual misconduct allegations shall be closed to the public, unless accused student and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, accused student and their respective attorney representatives may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct administrative

panel.

(11) The chair of the student conduct administrative panel will coordinate with the chief student services officer/Title IX coordinator or his/her designee to serve complainant a written notice indicating that the complaint has been resolved on the same date that the discipline order is served upon the accused student. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any restrictions and/or conditions imposed upon the accused student for the complainant's protection, including suspension or dismissal of the accused student. The notice shall also provide directions on how the complainant can appeal the decision.

(12) The complainant has the right to appeal an order of the student conduct administrative panel consistent with WAC 132Q-10-335. In the event of an appeal by the accused student or complainant, the chief student services officer shall provide a copy of the appeal to the nonappealing party. The complainant and accused student have the right to be assisted by an advisor of their choosing during the appeal process at their own expense.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-502, filed 5/18/17, effective 6/18/17. Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-502, filed 7/21/15, effective 8/21/15.]

132Q-10-503

Supplemental appeal rights for alleged sexually violent conduct.

(1) The following actions by the chief student services officer/Title IX coordinator and the student conduct administrative panel may be appealed by the complainant:

- (a) The dismissal of a sexually violent misconduct complaint; or
- (b) The disciplinary sanction(s) and conditions imposed against an accused student for a sexually violent misconduct violation.

(2) Appeals:

(a) A discipline order which includes findings of sexually violent misconduct may be appealed by filing a written notice of appeal with the chief student services officer within twenty calendar days of receiving notice of the discipline order. The notice of appeal must include a written statement setting forth the grounds of appeal and why the appeal should be granted.

(b) The dismissal of a sexually violent misconduct complaint by the Title IX coordinator may be appealed by filing a notice of appeal with the college president within twenty calendar days of receiving notice of the complaint dismissal. The notice of appeal must include a brief written statement explaining why the complainant or respondent is seeking review of the dismissal and why the appeal should be granted.

(3) Notice of appeal:

(a) If an order imposing discipline for a sexual misconduct violation is appealed, the college shall notify the nonappealing complainant/respondent of the appeal. The nonappealing complainant/respondent will be provided the option to be named as a party to the appeal.

(b) If the dismissal of a sexually violent misconduct complaint by the Title IX coordinator is appealed, the college shall notify the nonappealing complainant/respondent of the appeal. The nonappealing complainant/respondent will be provided the option to be named as a party to the appeal.

(4) A complainant/respondent who chooses to appeal a discipline order or who chooses to appear as a party to the appeal of a discipline order or the dismissal of a complaint shall be afforded the same procedural rights as are afforded to the other party.

(5) Review of appeals:

(a) Appeals of orders imposing discipline for a sexual misconduct violation shall be reviewed by the appeals board consistent with WAC 132Q-10-335 (5) through (6).

(b) Appeals of dismissal of complaints of sexual misconduct violation shall be reviewed by a college president. If the college president's decision is to affirm the dismissal of the original complaint that serves as the college's final order regarding the original complaint dismissal. If the college president determines that

the dismissal should be reversed, the matter shall be investigated pursuant to WAC 132Q-10-502. If the matter involves sexually violent misconduct, it will be investigated pursuant to WAC 132Q-10-502 and processed consistent with this chapter applicable to sexually violent misconduct. If the matter involves misconduct that does not include sexually violent misconduct, it will be processed consistent with the provisions of this chapter applicable to general misconduct.

(6) The chief student services officer/Title IX coordinator will serve complainant a written notice indicating that the appeal has been resolved on the same date that the final order is served upon the accused student. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any sanctions and/or conditions imposed upon the accused student for the complainant's protection, including suspension or dismissal of the accused student.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-503, filed 5/18/17, effective 6/18/17.
Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-503, filed 7/21/15, effective 8/21/15.]

Appendix 2

SCC College Catalog – Student Rights and Responsibilities

Catalog - Community Colleges of Spokane

Student Rights and Responsibilities

Student Code of Conduct

Students are responsible for their conduct and CCS expects all students to conduct themselves in a manner consistent with its high standards of scholarship and conduct. CCS has adopted a student conduct code and rules for enforcement and the code also outlines students' rights and responsibilities. Students are expected to comply with the standards of conduct both on and off campus and acknowledge the college's authority to take disciplinary action. All students should familiarize themselves with the code, which can be found online at app.leg.wa.gov/wac/default.aspx?cite=132Q-10.

Students with questions regarding the code should contact the SCC Vice President of Student Services or SFCC Dean of Student Support Services/Student Conduct Officer.

In addition, CCS follows all applicable federal and state laws regarding the prohibition of the use of firearms and dangerous weapons.

Per WAC 132Q-10-228, Community Colleges of Spokane prohibits being observably under the influence of any legend drug, narcotic drug or controlled substance or otherwise using, possessing, delivering, manufacturing, or seeking any such drug or substance, except in accordance with a lawful prescription for that student by a licensed health care professional or as otherwise expressly permitted by federal, state, or local law. Use of drugs and alcohol by any student on district-owned or used facilities, grounds, or motor vehicles, and at any college-sponsored activity on or off campus is prohibited.

Violations of the Student Code of Conduct shall be cause for disciplinary action. Disciplinary proceedings shall be conducted in accordance with WAC 132Q-10.

Student Right to Know

Community Colleges of Spokane complies with a variety of state and federal requirements regarding providing information to students and prospective students including but not limited to undergraduate completion, transfer and graduation rates; student diversity statistics; athletic program participation and financial support data; student athlete completion/graduation rates; Drug Free Workplace and Drug Free Schools and Communities policies and procedures; use of copyrighted materials; acceptable use of information technology, confidentiality and access of student records under the Family Education Rights and Privacy Act (FERPA); student tuition, fees, expenses, cost of attendance and financial assistance available to students; withdrawal procedures, refunds and return of financial aid; academic program, accreditation and licensure information; transfer credit policies; services available to students with disabilities; student activities offered; student conduct; student rights and responsibilities; student complaint processes; district security policies and crime statistics.

Detailed information is available on our web site at ccs.spokane.edu/Right-to-Know.

Complaint Procedures

Community Colleges of Spokane has established procedures to assist students who have a complaint or concern relating to an action by a member of the CCS community. It is the belief and practice at CCS that the best way for students to address concerns with faculty is to first meet with the faculty member involved and attempt to resolve the concern. If the concern involves a non-faculty employee, students are encouraged to meet with that employee's supervisor. Students are encouraged to contact the vice president of student services at SCC or SFCC regarding informal and formal complaint procedures (CCS Administrative Procedure, 3.40.01-D Student Concerns).

Students who believe they have been harassed or discriminated against should refer to the Equal Opportunity/Nondiscrimination/ Title IX section of the Catalog to learn the appropriate procedure to follow.

In addition, the Higher Education Act (HEA) prohibits an institution of higher education from engaging in a "substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates." 20 U.S.C. §1094(c)(3)(A). Further, each state must have "a process to review and appropriately act on complaints concerning the institution including enforcing applicable state laws." 34 C.F.R. § 600.9. The Washington State Board for Community and Technical Colleges (SBCTC) maintains a process to investigate complaints of this nature brought by community and technical college students in the state of Washington.

Appendix 3

Nursing Student Handbook – Relevant Portions

- 2. If the answer is greater than one (1), take it out to the hundredth place (2 places) and round to the tenth place (1 place).
- 3. If the problem is a time problem with an answer such as 3.462 hours, you have to figure minutes, after taking the answer out to three places. Do not round until the end. (Ex: $0.462 \times 60 = 27.72 = 28$ minutes)
- 4. For tablets, if you have a problem that results in an answer of 0.5 tablet, do not round up. If the answer is between 0.6 and 0.9, round up to the next whole number. Additionally, tablets may only be cut when they are scored.
- 5. Capsules are different. You cannot give a part of a capsule; therefore capsules have to be a whole number.
- 6. For converting lbs to kg for weight based medications, the answer should be carried out to the hundredth position and not rounded until the end of the problem. Rounding early in the problem results in at least double rounding and will give you the wrong answer in the end. Note: the only acceptable conversion from lbs to kgs is to divide the lbs by 2.2 or from kg to lbs is to multiply the kgs by 2.2.
- 7. For IV fluids being administered by gravity (gtts/min), the number of gtts must be expressed as a whole number. Therefore, you would round to the nearest whole drop. (Ex: $34.5 = 35$ gtts/min, $38.4 = 38$ gtts/min)
- 8. For IV fluids being administered by an IV pump (ml/hr) the number of mls is expressed to the nearest tenth. Therefore, you would round to the nearest tenth. (Ex: $21.67 = 21.7$ ml/hour or $21.42 = 21.4$ ml/hr)
- 9. Pediatric medications require precise calculations. Therefore, regular rounding rules apply for the rates of IV fluids to be administered by an IV pump to patients under age 12 or weighing less than 65 lbs. (Ex: 24.58 ml/hr = 24.6 ml/hr, 52.32 ml/hr = 52.3 ml/hr)
- 10. Do not include a trailing zero. (Ex: 12.0ml would simply be expressed as 12ml)
- 11. Be sure to include a leading zero for all numbers less than one. (Ex: .25ml should be expressed as 0.25ml)

4.3 Student Conduct Expectations

Students will maintain a professional attitude at all times and conduct themselves as mature adults. Instructors, as well as hospital or college staff, are not responsible for unprofessional or unsafe student behavior. Instructors can expect reasonable and acceptable student behavior at all times, in the classroom and at clinical sites. All code of conduct information can be found on the CCS website: <http://catalog.spokane.edu/StudentRights.aspx?page=PV1>

As adult learners, students enrolled in the Nursing Program are expected to behave in the following ways:

- Follow all policies outlined in the Nursing Student Handbook and SCC College Catalog
- Attend clinical, lecture and lab as scheduled
- Practice both newly- and formerly-acquired skills as well as apply critical thinking to scenarios in the nursing lab

- Treat patients and family members, faculty, peers, clinical facility and school personnel with utmost respect and dignity
- Maintain confidentiality for patients, their family members, and other clinical situations according to HIPAA guidelines and security policies as specified by clinical agencies
- Participate in the clinical simulation exercises specific to course in which student is enrolled
- Practice in the clinical setting using legal and ethical principles consistent with the scope of nursing practice
- Follow the policies of the SCC Nursing Program and applicable clinical agencies.

The following are violations considered just cause for immediate suspension:

- Stealing, willfully destroying or damaging any property of patients, other employees or of the organization
- Disobedience and insubordination
- Disorderly conduct at clinical or any behavior that results in the rescinding of the facility's contract with the SCC Nursing Program
- Duties performed under the influence of alcohol
- Use of drugs, dangerous or controlled substances
- Gross negligence in performance of duty
- Release of privileged information or violation of HIPPA
- Any dishonesty, cheating, or falsifying documents
- Unprofessional or irresponsible behavior.

Additional Information

Students are responsible for keeping SCC, the current Web Platform, and their instructors advised of changes of name, address or telephone number. This information is vital if an instructor, the College, or a clinical facility must contact a student. Student information forms can be found on the SCC website.

Students have the right to disagree with a clinical or lecture grade. The concern to be addressed using the SCC procedure for Addressing Student Concerns based the SCC college policy <http://catalog.spokane.edu/StudentRights.aspx>.

Students must tactfully decline any gifts or tips for services from any patient. Gifts to faculty by students are discouraged.

4.4 Academic Integrity

Academic integrity is taken very seriously in the SCC Nursing Program. Students may not copy or distribute any intellectual property of the course instructor. This includes but is not limited to: power point presentations, handouts and assignments. In order to maintain integrity of intellectual property, audio and video recording and still photography are not allowed in class.

Students are expected to review and comply with WAC 132Q-10 "Standards of Conduct for Students" and all associated WAC sections. Plagiarism, cheating, and any other violations of the Standards of Conduct for students will be reported to the SCC Student Conduct Officer.

Sanctions for academic integrity violations may include receiving a failing grade for the assignment or examination, or possibly a failing grade for the course. In some cases, the violation may also lead to the student's dismissal from the Nursing program and/or the college.

4.5 Dismissal Policy

Course failure results when the student fails to achieve all of the behaviors on the clinical evaluation tool, when the student has unsatisfactory performance in the laboratory learning objectives, or when the student does not have a passing grade in the theory portion of the course (78% or 2.0 GPA). Additionally, students who fail to meet the clinical requirements for CDC immunizations and background check standards for clinical access before the clinical rotation begins and the due date required by the Clinical Placement Manager/facility will be dismissed from the clinical portion of the course and therefore, will not successfully complete the course with a 78% or 2.0 GPA. Such students will then need to look to the re-admission policy for re-entry. See "course failure policy" in the appendix.

It is the student's responsibility to keep track of his/her clinical/lab performance and theory grades on the SCC Learning Management System. If a student's score is less than 2.0 or 78% in a nursing course at midterm, the faculty member will notify the student of the failing grade. The faculty member will attempt to arrange a meeting to address the student's needs for academic success and provide them with a Student Academic Progress Report. The student is responsible for adhering to the plan of action outlined in the Student Academic Progress Report, see appendix.

However, a maximum of one nursing course may be repeated in the Nursing Program.

Any student who achieves a final grade below 2.0 in a nursing course will be dismissed from the nursing program at that time. See Re-admission Procedure in the appendix.

In instances where a student is dismissed due to behavior considered "*Just Cause for Immediate Suspension and Dismissal*" as identified in each clinical evaluation tool, the faculty will determine, on a case-by-case basis, whether the dismissal is permanent with no option to return to the nursing program.

Dismissal from the nursing program is not an expulsion from CCS. Dismissal from the program includes dismissal from all nursing courses for the quarter. Students enrolled in dual numbered courses (Nurs/Phil 202, Nur/Phil 207, Nurs/Psych 106, Nurs/Psych 113), may complete those courses.

4.6 Withdrawal

If a student withdraws from the nursing program after the tenth day of the quarter and he/she is not passing any required nursing course (clinical, laboratory, theory), it will be considered a

Appendix 4

Course Syllabus Academic Integrity Policy for NURS 200

SPOKANE COMMUNITY COLLEGE
Winter 2018
NURS 200: Care of the Developing Family
Theory Content

INSTRUCTOR:

Marty Sells, MSN, RN
Office: Bldg. 9, Rm 227
Phone: 533-7489
Email: marty.sells@scc.spokane.edu

COURSE CREDITS: 3 credits

LECTURE HOURS: 6 hours weekly, 0900-1200. Section 1 from Jan 8 through Feb. 12, 2018,
Section 2 from Feb. 13 – March 22, 2018

COURSE DESCRIPTION:

This course builds from the knowledge from year one for the nursing program. Students will continue to apply the nursing concepts of critical thinking, safety, time management, and communication as they relate to childbearing women and their families. This course is a concept based course specifically applying the concepts of assessment and caring as they apply to maternal and perinatal health.

PREREQUISITES: Successful completion N101, N102, NUTRI 251, N104, N105, N106, N110, N111, N112 with a grade of 2.0 or higher

TEXTBOOKS

Ricci, Kyle, Carman: Maternity and Pediatric Nursing, 2nd edition, copyright 2013
Webber & Kelly: Health Assessment in Nursing, 5th edition, copyright 2014
Porth: Essentials of Pathophysiology, 4th edition, copyright 2015
Karch: Focus on Nursing Pharmacology, 6th edition, copyright 2013

NOTE: These texts and any additional text resources are included in enrollment in ThePoint.lww.com (required).

ON-LINE RESOURCES

Wolters Kluwer on-line resources: VSim, PrepU

Spokane Community College Nursing Program: Syllabi are subject to change

Revised 12/17

AR 0277

Course Objectives:

By the end of N200, the student will be able to:

- Professionalism
 - Explain professional communication and actions to be used with the patient and members of the health care team.
- Collaboration
 - Identify patient needs for referral within the community
- Clinical Decision Making
 - Explore evidence based principles of health and illness to promote, maintain, and restore the health of patients and their support systems throughout pregnancy and the postpartum period.
- Caring
 - Evaluate safe care for the patient throughout pregnancy and the postpartum period.
- Management of Care
 - Describe the promotion of self-care concepts of the patient throughout pregnancy and the postpartum period.

SPOKANE COMMUNITY COLLEGE NURSING PROGRAM LEARNING OUTCOMES:

After successful completion of the Associate of Applied Science Degree in Nursing at SCC the following outcomes are expected of the graduate:

Professionalism: Demonstrate accountability and integrity while utilizing legal standards and ethical values that govern professional nursing practice.

Collaboration: Coordinate care with the patient, significant support systems, and other members of the health care team to achieve optimal patient and organizational outcomes.

Clinical Decision Making: Utilize best current evidence and clinical judgment to ensure patient, staff and system safety in a variety of health care settings.

Caring: Create partnerships with the patient as the source of control in providing compassionate care based on respect for patients' preferences, values and needs.

Management of Care: Prioritize care based on principles of delegation, supervision, resource management, and information technology for patients in a variety of settings

METHOD OF INSTRUCTION: Methods of instruction for this course include lecture, class discussion, group work, written assignments.

EVALUATION:

The student's individual points attained are totaled at the end of the quarter and divided by the total points possible. From this figure, a percentage is determined, and a decimal grade is assigned. The student must achieve a minimum of 78% (2.0) to receive a passing grade in this course. Percentage points will NOT be rounded up to reach the required 78%.

In order to pass this course, each student must earn each of the following:

1. A minimum of 78% of total possible points within this course and
2. A minimum cumulative grade of 78% on all quizzes and unit exams

3. Students must demonstrate competency in the performance of the identified core competencies in the clinical skill evaluation tool and the course objectives.

WEIGHTED SCORING: Students who are taking the course accumulate points in the following manner:

1. Quiz(zes) and Cumulative Final Exam	60%
2. PrepU/ySim Assignments	15%
3. Professionalism (participation, attendance, preparation)	5%
4. Group work/Assignments/Case Studies	20%

Note: The weighting of exam may be subject to change. The instructor will notify students prior to any changes.

All courses previous coursework must be completed with a 78% or 2.0 GPA or higher in order to progress to the next course or quarter. (see student handbook for program progression) The program allows for one repeated course.

It is the students' responsibility to keep track of their grade on CANVAS. If one's score is less than 2.0 or 78% in the course at midterm, he/she is responsible for seeking additional help by contacting the instructor.

ACADEMIC INTEGRITY:

Academic integrity is taken very seriously in the SCC Nursing Program. Students may not copy or distribute any intellectual property of the course instructor. This includes but is not limited to: power point presentations, handouts and assignments. In order to maintain integrity of intellectual property, audio and video recording and still photography are not allowed in class.

Students are expected to review and comply with WAC 132Q-10 "Standards of Conduct for Students" and all associated WAC sections. Plagiarism, cheating, and any other violations of the Standards of Conduct for students will be reported to the SCC Student Conduct Officer.

Sanctions for academic integrity violations may include receiving a failing grade for the assignment or examination, or possibly a failing grade for the course. In some cases, the violation may also lead to the student's dismissal from the Nursing program and/or the college.

POLICY ON TAKING TESTS:

All students are expected to take scheduled exams on the scheduled day and time. You will not be allowed to take a test early or late without prior approval of the instructor. The student will need to notify the instructor if he/she is unable to take the test. A 10% deduction will be taken on all make-up exams (excluding military, legal and medical emergencies). All make-up tests must be completed within one week.

TEST REVIEW:

Individual study guides will not be used and it is the student's responsibility to review course objectives and unit objectives. Grades will be posted within one week of quiz, exam, and/or unit test. Students have one week to review the test with the instructor. Unless prior arrangements are made, the test will not be reviewed after that time frame.

POLICY ON HANDING IN ASSIGNMENTS:

No late assignments will be accepted unless prior approval has been given by the instructor.

MATH (DOSE CALCULATION) TEST:

The importance of the ability to calculate medication dosages correctly 100% of the time cannot be underestimated. As a School of Nursing, we have an obligation to protect the public and ensure that our graduates are prepared to safely administer all medications. Each student is expected to pass this test with a score of 100%. Students may retest up to a maximum of two times in order to achieve this goal. Students who fail to score 100% on their third attempt will be considered as failing that quarter. The math test for fourth quarter will be administered in N201, the LAB component of the fourth quarter curriculum. Students will be given the opportunity to review the missed questions prior to retaking the math exam. *There will be no exceptions to this policy.*

Grades are converted to the 4.0 scale from percentages based on the following chart:

Grading Scale	G.P.A.	Score
Superior Achievement "A"	4.0	97-100
	3.9	96
	3.8	95
	3.7	94
	3.6	96
	3.5	92
Above Average Achievement "B"	3.4	91
	3.3	90
	3.2	89
	3.1	88
	3.0	87
	2.9	86
Average Achievement "C"	2.8	85
	2.7	84
	2.6	83
	2.5	82
	2.4	81
	2.3	80
	2.2	79
	2.0	78
GRADES BELOW 78% ARE NOT SUFFICIENT TO PROGRESS IN THE NURSING PROGRAM		

THE LAW OFFICE OF JULIE C. WATTS, PLLC

June 21, 2019 - 10:15 AM

Transmittal Information

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