

## Chapter 174-123 WAC

### STUDENT CONDUCT CODE

#### NEW SECTION

**WAC 174-123-010 The Evergreen State College student conduct code.** This chapter will be known as the student conduct code (code) for The Evergreen State College.

#### BACKGROUND

#### NEW SECTION

**WAC 174-123-020 Purpose.** The Evergreen State College can thrive only when all members of the community participate in the social contract, which prizes academic and interpersonal honesty, conveys our commitment to resolving differences with a strong will toward collaboration, and protects community values and individual rights. The student conduct code articulates specific procedures and standards for upholding the values and aspirations expressed in the social contract. Specifically, the code strives to afford opportunities for informal resolution and to support students to be accountable for their decisions and actions. The code has been crafted in the spirit of education and compassion, with the aim of healing individuals, preserving our common interests, and protecting each other from harm.

NEW SECTION

**WAC 174-123-030 Student rights and responsibilities.** (1)

Every student has a duty to know, understand and abide by the rules and policies of the college.

(2) In most cases, students will have the opportunity to resolve alleged violations informally through mediation, arbitration, or restorative justice conference.

(3) Students alleged to have violated the code have the following rights under the code:

(a) To be informed of the charges against them and know who the complainant is;

(b) To request an informal resolution of the complaint;

(c) To participate in developing a mutually agreed upon contract of accountability with the student conduct administrator;

(d) To appeal a determination of responsibility and/or required resolution and sanctions, issued by a student conduct administrator, to the student conduct appeals board;

(e) To hear and respond to information upon which a charge is based;

(f) To call relevant persons to provide information at hearings before the student conduct code appeals board;

(g) To request that any person serving as a student conduct code administrator, or serving as a student conduct code appeals board member, be replaced as provided in the code on the grounds of bias, prejudice, or conflict of interest.

(4) Complainants have the following rights under the code:

(a) To participate in an informal resolution of the complaint;

(b) To inquire about the status of the complaint;

(c) To appeal a determination of responsibility and/or required resolution and sanctions, issued by a student conduct administrator, to the student conduct appeals board and to call relevant persons to provide information before the student conduct code appeals board in cases where a complaint alleges sexual misconduct, sexual harassment, or physical abuse;

(d) To request that any person serving as a student conduct code administrator, or serving as a student conduct code appeals board member, be replaced as provided in the code on the grounds of bias, prejudice, or conflict of interest.

NEW SECTION

**WAC 174-123-040 Definitions.** (1) **"College"** means The

Evergreen State College.

(2) **"Student"** means:

(a) Any applicant who becomes enrolled, for violations of the code committed as part of the application process or committed following the applicant's submittal of the application through

official enrollment;

(b) Any applicant accepted for admission or readmission to the college;

(c) Any person currently enrolled at the college;

(d) Any person enrolled at the college in a prior quarter or summer session, and eligible to continue enrollment in the quarter or summer session that immediately follows; or

(e) Any person who was enrolled for violations of the code that occurred while enrolled; or

(f) Any person not employed by the college on a permanent basis who resides in college housing.

(3) "**Faculty member**" means any person employed by the college to conduct teaching activities or who is otherwise considered by the college to be a member of the faculty.

(4) "**Staff member**" means any person employed by the college for nonteaching purposes.

(5) "**College official**" means any person employed by the college performing assigned teaching, administrative or professional responsibilities.

(6) "**Member of the college community**" means any person who is a student or faculty or staff member. A person's status in a particular situation will be determined by the vice-president for student affairs.

(7) "**Guest**" means any person who is not a member of the college community on college premises at the invitation and/or hosting of a student.

(8) "**College premises**" means all land, buildings, facilities, and other property in the possession of or owned, used, leased or controlled by the college including adjacent streets and sidewalks.

(9) "**College-sponsored event or activity**" means activities or events involving planning or funding, or other authorized participation by the college.

(10) "**Recognized organization**" means any group which has complied with the formal requirements for college recognition and is an officially recognized college organization. A group's status in a particular situation will be determined by the vice-president for student affairs.

(11) "**Policy**" means the official written policies and procedures of the college published on the college's web site or in the college catalog; or the individual requirements of a department or office, posted anywhere on college premises or at college-sponsored events or activities.

(12) "**Vice-president for student affairs**" is the person designated by the college president to oversee the administration of the code, and for performing the other duties and obligations of the position.

(13) "**Senior student conduct administrator**" means the primary college official authorized by the vice-president for student affairs responsible for administering the code.

(14) "**Student conduct administrator**" means a college official authorized by the vice-president for student affairs to administer the code in response to a complaint.

(15) "**Complainant**" means any person who submits a complaint alleging that a student violated the code and/or a student who believes they have been the victim of another student's misconduct.

(16) "**Respondent**" means any student alleged to have violated the code.

(17) "**Restorative justice conference**" means an informal process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things right as possible.

(18) "**No contact order**" means a directive of no contact with a member of the college community which may require a student to organize their activities in order to avoid contact with designated individuals.

(19) "**Conduct hold**" means a hold placed on the student's official record with the registrar by the senior student conduct code administrator prohibiting a student from registering for academic credit or receiving a copy of their transcript until the hold is removed by the senior student conduct code administrator or the vice-president for student affairs.

(20) "**Resolution and sanction(s)**" means those tasks or consequences, and associated deadlines, the respondent must complete to address violations of the code articulated in the contract of accountability.

(21) "**Contract of accountability**" means a written mutual agreement between the respondent and student conduct administrator which states the violations of the code and the resolution and sanction(s).

(22) "**Determination of responsibility**" means a decision of the student conduct administrator regarding whether or not the respondent is responsible for the alleged violation(s) of the code.

(23) "**Required resolution and sanction**" means the decision of the student conduct administrator regarding the resolution and sanction(s) appropriate to the level of responsibility for violating the code as conveyed in the determination of responsibility.

(24) "**Final determination**" means a decision by the student conduct appeals board stating the outcome of the hearing.

(25) "**Written notice**" means written communication personally provided to the student or delivered via the student's assigned college account electronic mail address.

(26) "**Served notice**" means written communication personally provided to the student, or upon deposit in the United States mail addressed to the student at his or her last known address. A student's last known address will be the current address on file with the registrar unless a student has provided written notice of a different address to the office of the vice-president for student affairs.

(27) "**Calendar day**" means every day of the month including weekends and state holidays.

(28) "**Business day**" means any calendar day, exclusive of weekends and federal and school holidays, in which the college is

open to the public for the conduct of business.

NEW SECTION

**WAC 174-123-050 Jurisdiction.** (1) The code applies to:

(a) Prohibited conduct that occurs on college premises or at college-sponsored events or activities; and applies in all locations of the college, including locations other than Olympia, Washington; and

(b) Prohibited conduct that does not occur on college premises or in the context of college-sponsored events or activities where it is reasonable to conclude the conduct causes, or threatens to cause, substantial and material disruption or interference with teaching by the college and student learning; or where the conduct causes, or threatens to cause, a substantial and material danger to the health, welfare, or personal safety of any member of the college community, or to college property. The vice-president for student affairs will determine whether the code will be applied to conduct occurring off campus on a case-by-case basis.

(2) Each student is responsible for their conduct from the time of application for admission through the actual awarding of a degree as follows:

(a) Before a program or course of study begins or after it ends;

(b) During the academic year; and

(c) During periods between terms of actual enrollment, even if the person's conduct is reported after a degree is awarded.

(3) The code applies to a student's conduct even if the student withdraws from the college while a complaint is pending.

(4) Alleged misconduct by a student organization will be addressed by student activities' policies and procedures.

(5) Nothing herein will be construed as being intended to create a legal obligation on the part of the college to protect any person or class of persons from injury or harm, or to deny students their legal and/or constitutionally protected rights.

NEW SECTION

**WAC 174-123-060 Computation of time.** In computing any period of time in these rules, the day from which the designated period begins to run will not be included. The last day of the period will be included unless it is a Saturday, Sunday, or holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or holiday.

NEW SECTION

**WAC 174-123-070 Prohibited conduct.** Students are expected to engage in responsible conduct that reflects credit upon the college community and to model good citizenship. Students are expected to preserve college functions, maintain academic integrity, provide honest and accurate information, prevent harm to self or others, foster a safe community, protect and preserve college and personal property, and to adhere to published policies, contracts, and local, state and federal laws. Attempting or engaging in any of the following conduct is specifically prohibited under the code.

(1) Academic dishonesty which includes, but is not limited to, the following:

(a) Plagiarism defined as appropriating or incorporating any other person's published or unpublished work in one's own work without full, clear and correct acknowledgment;

(b) Copying from another person's academic work without proper acknowledgment;

(c) Using assistance or materials that are expressly forbidden to complete an academic product or assignment;

(d) The unauthorized collaboration with any other person during the completion of independent academic work;

(e) Knowingly falsifying or assisting in falsifying in whole, or in part, the contents of one's academic work;

(f) Permitting any other person to substitute oneself to complete academic work; or

(g) Engaging in any academic behavior specifically prohibited by a faculty member in the course covenant, syllabus, or individual or class discussion.

(2) Conduct that obstructs or disrupts any college learning, teaching, research, administration, adjudicative process, public service functions or college-sponsored events or activities.

(3) Failure to be truthful to the college or a college official. This includes, but is not limited to, knowingly making false charges against another member of the college community; and providing false or misleading information in an application for admission, to gain employment, or in a college investigation, hearing or process.

(4) Forgery, alteration, or the misuse of college documents, records or identification cards.

(5) Failure to comply with the direction of or failure to identify yourself to a college official or other public official acting in the performance of their duties.

(6) Physical abuse of any person including, but not limited to, physical assault with bodily injury or the threat of physical harm to another person.

(7) The recording of any private conversation, by any device, without the consent of all persons engaged in the conversation

except as permitted by state law chapter 9.73 RCW. For purposes of this section, the term "consent" will be considered obtained only when one party has announced to all other parties engaged in the communication or conversation that such communication or conversation will be recorded or transmitted; and the announcement itself is recorded as part of the conversation or communication.

(8) Viewing, photographing, or filming another person without that person's knowledge and consent, while the person being photographed, viewed or filmed is in a place where he or she would have a reasonable expectation of privacy.

(9) Unauthorized entry into or onto, or the unauthorized remaining in, or upon, any college premises; or the unauthorized possession, duplication, or use of a college key or other access device.

(10) Intentional sounding of a false alarm which includes, but is not limited to, initiating or causing to be initiated any false report, warning or threat, such as that of fire, explosion or emergency that intentionally causes a false emergency response; and the improper use or disabling of safety equipment and signs.

(11) Failure to evacuate during a fire alarm; the improper use or damaging of fire prevention or safety equipment, such as fire extinguishers, smoke detectors, alarm pull stations, or emergency exits; or the unauthorized setting of fires.

(12) The possession, use, manufacture, or distribution of alcohol except as expressly permitted by law or college policy; or public appearance on college premises while intoxicated. Alcoholic beverages may not, in any circumstance, be used, possessed, consumed by, or distributed to, any person under the legal age.

(13) Possession, use, manufacture, cultivation, packaging, distribution, selling, or the providing of any controlled substance as identified in chapter 69.50 RCW; or the possession or use of drug paraphernalia as defined in RCW 69.50.102; use of a prescription drug other than as prescribed, use of a prescription drug not issued to the student, or the distribution or sale of a prescription drug to a person to whom the prescription was not originally issued; or public appearance while under the influence of a controlled or illegal substance.

(14) Damaging, defacing, destroying, or tampering with, college property or other personal or public property. This includes, but is not limited to, graffiti and vandalism.

(15) The attempted or actual theft of property or services. This includes, but is not limited to, taking, attempting to take, possessing, or aiding another to take college property or services, or property belonging to any person, without express permission.

(16) Possessing firearms or other dangerous weapons other than to secure them with police services; the unauthorized use, possession or storage of any explosives, fireworks, dangerous chemicals, or substances; or the use of any instrument designed to cause harm, or realistic replica of such instrument, in such a manner which might reasonably threaten or cause fear or alarm to others.

(17) Sexual misconduct which includes the following:

(a) The actual or attempted sexual intercourse or sexual

contact that is unwanted or forced upon another, without the consent of that person. Sexual contact is any intentional contact with the breasts, buttock, groin or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts. Sexual intercourse means any anal, oral or vaginal intercourse, however slight, with any object. Consent means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating a voluntary and mutually understandable agreement between the parties to engage in the action(s) or behavior(s). Consent may not be given or granted when one's capacity for effective decision making has been diminished by the use of alcohol or drugs, or a person is unconscious, or is experiencing some other cognitive impairment. Consent is not considered voluntary when obtained through threats, intimidation, or coercion. Sexual misconduct can occur with any combination of genders, gender expressions and sexual orientations.

(b) The photographing or filming of the intimate areas of another person without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(c) The indecent exposure of a person's genitals when done in a place where such exposure is likely to be an offense against generally accepted standards of decency.

(d) Sexual exploitation which occurs when one takes nonconsensual or abusive sexual advantage of another for another's advantage or benefit and that behavior does not otherwise constitute one of the other sexual misconduct prohibitions. Sexual exploitation includes, but is not limited to, going beyond the boundaries of consent (such as allowing others to view otherwise consensual sexual activity).

(18) Harm, which is behavior directed at an individual that is sufficiently severe, pervasive, or persistent such that it diminishes or interferes with the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the college or an employee to engage in their work duties.

(19) Stalking which is defined as repeatedly engaging in a course of conduct directed at another individual that would cause a reasonable person to experience alarm, fright or determine that their safety, or the safety of those affiliated or associated with them is at risk.

(20) Harassment which is defined as conduct against a person on the basis of race, color, ethnicity, national origin, religious affiliation, sex, gender identity or expression, disability, age, military status, or sexual orientation that is sufficiently severe, pervasive, or persistent to create an objectively hostile environment that interferes with or diminishes the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the college, or an employee to engage in work duties.

(21) Failing to monitor the behavior of a visitor or guest to assure their adherence to the code.

(22) Violation of any college policy including, but not limited to, residential and dining services policies.

(23) Knowingly assisting another person to violate the code or failing to report to a college official conduct that constitutes significant damage to property or a serious danger to the health or personal safety of an individual.

(24) Tampering with the election of any student organization or group.

(25) Hazing which is conduct that includes any activity or method of initiation into a recognized organization or student social, living, learning, or athletic group that causes, or is likely to cause, bodily danger or physical, mental, or emotional harm to any member of the college community.

(26) Being charged with violation of federal, state, or local law by law enforcement, or conviction of a felony or misdemeanor, under circumstances where it is reasonable to conclude that the presence of the person on college premises would constitute a danger to the health, or personal safety of members of the college community.

#### NEW SECTION

**WAC 174-123-080 Emergency suspension.** (1) The vice-president for student affairs, or designee, may immediately suspend a student from the college for an interim period prior to the completion of an investigation of an alleged code violation by the student conduct administrator, if the student's alleged act of misconduct is of such a serious nature that continued enrollment at the college presents a threat to the safety, health, or welfare of any member of the college community, or the protection of personal or college property.

(2) A student placed on emergency suspension will be served notice of the suspension, the reason for imposing an emergency suspension, and advised of the date, time and place for a hearing regarding the suspension before the vice-president of student affairs, or their designee. The hearing will take place no later than ten business days from the effective date of the emergency suspension.

(3) The respondent may request to proceed with a conduct conference with the senior conduct administrator prior to the emergency suspension hearing. The resolution of the conduct conference may result in removal of the emergency suspension with the vice-president's approval.

(4) Failure of a student to appear at the time and place scheduled in the served notice will result in the issuance of an order of default and in the loss of the student's right to a hearing challenging the emergency suspension.

## STUDENT CONDUCT CODE PROCEDURES

### NEW SECTION

**WAC 174-123-090 Purpose.** The procedures governing a student conduct administrator's handling of complaints under the code are designed to afford complainants and respondents informal resolution options and a fair and accessible process. The process educates students about their rights and responsibilities, holds students accountable for their actions, and provides due process.

### NEW SECTION

**WAC 174-123-100 Submitting a complaint.** (1) Any person may submit a complaint against a student alleging a violation of the code. The complaint must be submitted in writing to the senior student conduct administrator or to any other college official. A complaint should be submitted as soon as possible after the event has taken place.

(2) The senior conduct administrator, or designee, will be responsible for addressing alleged violations of the code. If there is a question about who should be responsible for addressing a complaint, the vice-president for student affairs, or designee, will assign responsibility for handling the complaint and if necessary, serve as a student conduct administrator.

(3) A complainant or respondent may request, in writing to the vice-president for student affairs, to have a complaint addressed by an alternate student conduct administrator if a bias, prejudice, or conflict of interest is identified. The vice-president of student affairs will have the final authority to determine the appropriate student conduct administrator to assign in this case.

### NEW SECTION

**WAC 174-123-110 Notification to respondent.** (1) The respondent will meet with the student conduct code administrator for a conduct conference as directed in a written notice.

(2) The student conduct administrator may impose interim restrictions on the respondent prior to, or at any stage during, a conduct conference, when the health or safety of the complainant or

any member of the college community is deemed at risk. The interim restriction may include a no contact order and/or loss of privileges limiting access to community members who may be at risk due to the respondent's presence.

A student issued an interim restriction that includes loss of privileges will receive written notice of the interim restriction, the reason for imposing an interim restriction, and advised of the date, time and place for a hearing regarding the interim restriction before the student conduct administrator, or their designee. The hearing will take place no later than three business days from the effective date of the interim restriction.

(3) The interim restriction will remain in place until a contract of accountability exists, an appeal board issues a final determination, or the student conduct administrator notifies the respondent in writing that the interim restriction has been modified or is no longer in effect.

#### NEW SECTION

**WAC 174-123-120 Conduct conference.** (1) During the conduct conference, which may occur over a series of meetings, the student conduct administrator will explain to the respondent the process for addressing complaints under the code, advise the respondent of their rights and responsibilities, and review with the respondent the complaint and alleged violation(s) of the code.

(2) If there is more than one respondent involved in the complaint, the student conduct administrator, at their discretion, may conduct the conferences concerning each respondent either separately, or jointly.

(3) Failure to meet with the student conduct administrator at the appointed time during the conduct conference process may subject a respondent to a conduct hold. If the respondent fails to meet with the student conduct administrator as required, a determination of responsibility and required resolution and sanctions may be determined in the respondent's absence.

(4) In addition to information sought from the respondent regarding the allegations, the student conduct administrator may seek additional information from other persons with information relevant to the investigation of the complaint.

(5) If the complaint is determined to have merit, the student conduct administrator will proceed with informal resolution, enter into a contract of accountability with the respondent, or complete an investigation and issue a determination of responsibility and required resolution and sanction(s). If the student conduct administrator determines that the respondent is not responsible for violating the code, no action will be taken and the complaint will be dismissed.

NEW SECTION

**WAC 174-123-130 Informal resolution.** If the student conduct administrator concludes that efforts at informal resolution are appropriate to resolve a complaint, the administrator will take whatever steps are useful to that end, including mediation, arbitration or a restorative justice conference. The complainant may end the informal resolution process at any time and request formal resolution of the complaint.

If an informal resolution is reached and the respondent complies with the agreed terms and conditions, if any, no further action against the respondent will be taken and the matter will be closed. If a resolution is not reached, or the respondent fails to comply with the agreed terms and conditions of the resolution, the student conduct code administrator may proceed to take action necessary to resolve the complaint.

NEW SECTION

**WAC 174-123-140 Contract of accountability.** (1) The student conduct administrator may work with any respondent who acknowledges responsibility for engaging in prohibited conduct to identify the resolution and sanction(s). If an agreement is reached, the resolution and sanction(s) will be contained in a written contract of accountability signed by both the respondent and the student conduct administrator.

(2) A respondent who enters into a contract of accountability will comply with the resolution and sanction(s) set forth in the contract and will have no further right of appeal under the code. A respondent's failure to comply with a contract of accountability may be the basis for a separate violation of misconduct under the code and may result in the student conduct administrator issuing a conduct hold. The conduct hold will remain in effect until such time that the student satisfactorily completes all of the requirements of the contract of accountability. If a complaint alleges sexual misconduct, sexual harassment, or physical abuse, the complainant is to be informed of the contract of accountability.

NEW SECTION

**WAC 174-123-150 Notice of determination of responsibility and required resolution and sanctions.** (1) If a complaint is not resolved through informal resolution or by entering into a contract

of accountability, the student conduct administrator will issue a determination of responsibility based on a standard of more likely than not and if appropriate, a required resolution and sanction(s).

(2) The determination of responsibility will identify the specific conduct that has violated the code. The required resolution and sanction(s) will provide for those tasks or consequences, and associated deadlines, the respondent must execute to address violations of the code.

(3) The student conduct administrator's determination of responsibility and required resolution and sanction(s) will be final unless the respondent files a timely appeal to the student conduct appeals board. If a complaint alleges sexual misconduct, sexual harassment, or physical abuse, the complainant is to be informed of the final determination and any sanction imposed against the respondent and may file a timely appeal to the student conduct appeals board.

#### NEW SECTION

**WAC 174-123-160 Resolution and sanctions.** The following resolution and sanctions may be agreed to by, or required of, a respondent found to have violated the code. More than one resolution and sanction may be imposed for any single violation. Resolution and sanctions are based on the unique aspects of each situation and should be appropriate to the violation, taking into consideration the context and seriousness of the violation. History, patterns, and frequency of misconduct; severity and level of impact on the community; and a student's motivation and response all determine the resolution and sanction for each individual respondent.

(1) **Warning.** This is a written notice that the student is violating, or has violated, the code.

(2) **Educational and discretionary actions.** This includes, but is not limited to, work assignments, essays, behavior assessment and recommended treatment, completion of a workshop or training, restorative justice conference, or service to the college.

(3) **Probation.** A written reprimand and notice that for a designated period of time a student will be on special status with conditions imposed that include the probability of additional required resolution and sanctions if the student is found to violate the code during the probationary period of time.

(4) **Loss of privileges.** This may include, but is not limited to, limited access or restriction from college premises, college-sponsored activities or events, use of equipment, student employment, or participation in cocurricular activities.

(5) **Restitution.** Compensation for loss, damage, or expenses for injury incurred by the college or persons resulting from a violation of the code. This may take the form of appropriate

service, monetary or material replacement, or a combination of both.

(6) **No contact order.** A directive that a student may have no contact with other stated members of the college community. In the case where a "no contact order" is issued, a student may be required to organize their activities in order to avoid contact with designated individuals.

(7) **Residence hall suspension.** Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions allowing for a student to return to the residence hall may be specified in the suspension.

(8) **Residence hall expulsion.** Permanent separation of the student from the residence halls.

(9) **College suspension.** Separation of the student from the college for a definite period of time, after which the student is eligible to return, provided that the student has complied with all conditions imposed as part of the suspension and the student is otherwise qualified for reenrolling. Conditions for reenrollment may be specified in the suspension.

(10) **College expulsion.** Permanent separation of the student from the college with a notation on the student's transcript.

(11) **Withholding admission or degree.** The withholding of admission to, or the withholding of a degree awarded from, the college for a specified amount of time.

(12) **Revocation of admission or degree.** The revocation of the admission to or the revocation of a degree from the college in those cases in which egregious academic dishonesty is discovered subsequent to a student's graduation. Degree revocation must be approved by the board of trustees and will be noted on the student's academic record.

(13) **Records hold.** The placement of a records hold on the student's academic record prohibiting the release of any transcripts, diploma(s) or other records until a student satisfies the terms and conditions of any required resolution and sanction.

## STUDENT CONDUCT APPEALS

### NEW SECTION

**WAC 174-123-170 Filing of appeal.** (1) A respondent may appeal a student conduct administrator's determination of responsibility and required resolution and sanction(s) to the student conduct appeals board. A complainant, in cases where a complaint alleges sexual misconduct, sexual harassment, or physical

abuse may also appeal a student conduct administrator's determination of responsibility and required resolution and sanction(s) to the student conduct appeals board. An appeal must be in writing and received by the vice-president for student affairs within twenty calendar days of written notice of the student conduct administrator's determination of responsibility and required resolution and sanction(s).

(2) Except in cases of an emergency suspension, the respondent's enrollment status, and rights as an enrolled student, will not be altered if a timely appeal is filed with the student conduct appeals board under subsection (1) of this section.

#### NEW SECTION

**WAC 174-123-180 Notice of hearing.** (1) After receipt of a timely request for a hearing, the vice-president for student affairs, or designee, will schedule a hearing before the student conduct appeals board and provide served notice to the respondent at least seven business days in advance of the hearing. The seven days advance notice may be waived by the vice-president for student affairs, or designee, with the student's permission.

(2) The served notice provided to the respondent will include the following:

(a) The date, time, location, and nature of the proceeding;

(b) A date by which the respondent and student conduct administrator must identify advisors and/or individuals who will be involved in sharing information on their behalf as well as requests for reasonable accommodations, if any, for these individuals;

(c) A date by which the student conduct administrator and respondent must provide copies of any documents to be provided to the board at the hearing. The date for providing documents must be at least two business days prior to the hearing date.

#### NEW SECTION

**WAC 174-123-190 Procedure at hearing.** The procedures to be followed at hearings conducted by the student conduct appeals board are as follows:

(1) All procedural questions and other decisions are subject to the final decision of the chair of the board unless otherwise provided for in these rules. The chair will ensure that the proceeding is held in an orderly manner such that the rights of all parties to a full, fair and impartial proceeding that adheres to the code is achieved.

(2) The hearing is a closed proceeding which includes only members of the board; the advisor to the board, if any; the student conduct administrator and their advisor, if any; the complainant and the respondent and their advisor(s), if any; and persons requested to provide information at the hearing. Admission of any other person to the hearing is at the discretion of the board's chair and subject to the requirement set forth in subsection (8) of this section.

(3) The complainant and the respondent are neither encouraged nor required to be assisted by an advisor of their choosing at their own expense. The student conduct administrator and respondent are expected to present all information during the proceedings. Proceedings will not be automatically delayed due to the scheduling conflicts of an advisor. In cases where the complaint alleges sexual misconduct, sexual harassment, or physical abuse, the complainant may present information during the proceedings.

(4) There will be a single verbatim sound recording of the hearing, and the record will be on file with the vice-president for student affairs and is the property of the college.

(5) The respondent's failure to cooperate with or attend a hearing will not preclude the board from proceeding and issuing a final determination or upholding the determination of the student conduct administrator.

(6) Only those materials and information presented at the hearing will be considered. The chair may exclude or limit ineffectual, irrelevant, or unduly repetitious information.

(7) Any person disrupting the proceeding will be duly warned and subsequently may be excluded from the hearing by the chair. Any student engaging in such interference will be in violation of the student conduct code.

(8) The chair is authorized to take reasonable measures to maintain control over the proceedings in order to elicit relevant information, to prevent the mistreatment of participants, to insure that proceedings are not disrupted and the interests of fairness are served. This may include regulating the timing, length and manner of presentations, declaring recesses in the proceedings, and taking other appropriate actions.

(9) Only members of the student conduct appeals board and the advisor to the board, if any, will be present for deliberations. Deliberations are not recorded. During deliberations the board will consider all the information presented and decide by majority vote whether it is more likely than not that the respondent is responsible for violating each section of the code the respondent is charged with violating and/or what resolution and sanction(s) to impose.

NEW SECTION

**WAC 174-123-200 Board composition.** (1) The board will be composed of five members consisting of one faculty member, one staff member, and three students. One member will be designated by the vice-president to serve as the chair of the board for a hearing.

(2) The faculty agenda committee will designate faculty members to serve on the student conduct appeals board as needed.

(3) The vice-president for student affairs will be responsible for designating the student and staff members serving on the board. The student members, including the selection of alternate members to serve as necessary, will be done through an open selection process established by the vice-president.

(4) A respondent, complainant, and/or the student conduct administrator may request removal of a member of the board at the commencement of the hearing for reasons of bias, prejudice or conflict of interest. The chair of the board will be responsible for making decisions regarding removal, unless the student is requesting removal of the chair. When there is a request to remove the chair, and the chair does not voluntarily step down, a quorum of the remaining members will decide whether removal is warranted. If a member is removed, an appropriate alternate member (i.e., faculty, student or staff) will serve on the board for the excused member.

NEW SECTION

**WAC 174-123-210 Final determination.** The board will issue a final determination that:

(1) Upholds part, or all, of the determination of responsibility; and upholds the required resolution and sanction(s), or modifies or develops an alternate resolution and sanction(s); or

(2) Determines that it is more likely than not that the student is not responsible for violating the code, reverse the determination of responsibility issued by the student conduct administrator, and dismiss the case.

The final determination will be provided to the respondent by served notice. If a complaint alleges sexual misconduct, sexual harassment, or physical abuse, the complainant will be informed of the final determination and any sanction imposed against the respondent by written notice.

NEW SECTION

**WAC 174-123-220 Reconsideration.** (1) Within ten business days of the served notice of the final determination, the complainant or the respondent may submit a petition for reconsideration with the student conduct appeals board. The petition must state the specific grounds upon which relief is requested.

(2) The petition will be deemed submitted on the day of actual receipt by the board. Service on the board can be made by one of the following means:

(a) E-mail received by the office of the vice-president for student affairs; or

(b) By deposit in the United States mail, postage prepaid, addressed as follows: The Evergreen State College, Student Conduct Appeals Board, Office of the Vice-President for Student Affairs, 2700 Evergreen Parkway N.W., Olympia, Washington 98505; or

(c) By personal service on the student conduct appeals board which will be deemed accomplished by hand delivering the petition to the office of the vice-president for student affairs during regular business hours at the address listed in (b) of this subsection.

(3) The final determination issued by the student conduct appeals board will remain in effect during the time period that a petition for reconsideration is under review by the board. The board will respond within twenty business days from the date the petition is submitted.

**MAINTENANCE OF STUDENT CONDUCT CODE RECORDS**

NEW SECTION

**WAC 174-123-230 Retention.** (1) A student's conduct record may be retained for seven years after the final disposition of the case unless the college is required to retain the record for a longer period of time under another provision of state or federal law. When the resolution and sanction(s) includes college expulsion or revocation of a degree the record will be retained in perpetuity. Final disposition is defined as when:

(a) A respondent fulfills the contract of accountability or the required resolution and sanction(s) issued by the student conduct appeals board; or

(b) A case is closed at the discretion of the student conduct administrator when the respondent has not completed the required

resolution and sanction and has not been enrolled for twelve months.

(2) Other than college expulsion, degree revocation, or withholding of a degree, resolution and sanctions will not be made part of the student's permanent academic record, but will be part of the student's conduct record.

## **SIMULTANEOUS CIVIL OR CRIMINAL PROCEEDINGS**

### NEW SECTION

#### **WAC 174-123-240 Simultaneous civil or criminal proceedings.**

(1) Student conduct code proceedings may be instituted and carried out without regard to any criminal or civil litigation or external processes with which the student may be involved. Issuance of a determination of responsibility or required resolution and sanction(s) by the student conduct administrator or appeals board will not be subject to change because criminal charges or civil litigation from the same facts resulting in an allegation of violation of the code were dismissed, reduced, or resolved in favor of or against the respondent.

(2) If a respondent charged with misconduct under this code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the respondent may petition the vice-president for student affairs to postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge. The vice-president will have the discretion to grant or deny the request.

(3) When a respondent is charged by federal, state, or local authorities with a violation of law, the college will not request or agree to special consideration for the individual because of their status as a student. If the alleged criminal offense is also being addressed under the code, the college may advise off-campus authorities of the existence of the code and how such matters are typically handled within the college community.