

WAC 478-121-630 Dismissal of a formal complaint. (1) Mandatory dismissal. In accordance with the Department of Education federal regulations, the university will dismiss a formal complaint for purposes of Title IX and its implementing regulations if the alleged conduct:

- (a) Would not constitute EDFR prohibited conduct even if proved;
- (b) Did not occur in the university's education program or activity;
- (c) Did not occur against a person in the United States; or
- (d) Was alleged by or in respect to a complainant who is not participating in or attempting to participate in a university education program or activity.

If dismissal occurs under this subsection (1) of this section, the university may pursue a conduct proceeding under other parts of this code.

(2) Discretionary dismissal. The university may dismiss the formal complaint, or any allegations therein, for the purposes of Title IX and its implementing regulations, if at any time during the investigation or hearing:

- (a) A complainant notifies the university's Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or any specific allegations in the formal complaint;
 - (b) The respondent is no longer an enrolled university student;
- or

(c) Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or any allegations made in the formal complaint.

(3) Notice. Upon a dismissal required or permitted under this section, the university will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

(4) Consequences of dismissal. Dismissal of a formal complaint does not preclude the university from investigating alleged misconduct under Part II or adjudicating such alleged misconduct under Parts III through V of this code.

(5) Appeal. If the university dismisses a formal complaint, the parties have a right to appeal, as described in WAC 478-121-635.

[Statutory Authority: RCW 28B.20.130 and 34 C.F.R. Part 106. WSR 21-07-047, § 478-121-630, filed 3/11/21, effective 4/11/21.]