

Chapter 148-120 WAC STUDENT CONDUCT CODE

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WAC

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effective 7/9/94.] Repealed by WSR 16-10-061, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.0191 and 28A.300.285.

148-120-120 Misdemeanor and/or felony. [Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-120, filed 6/8/94, effective 7/9/94.] Repealed by WSR 16-10-061, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.0191 and 28A.300.285.

148-120-200 Policy. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-200, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-200, filed 6/8/94, effective 7/9/94.] Repealed by WSR 16-10-061, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.0191 and 28A.300.285.

148-120-220 Short-term suspension. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-220, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-220, filed 6/8/94, effective 7/9/94.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-225 Short-term suspension—Notice and conference—Grievance procedure. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-225, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-225, filed 6/8/94, effective 7/9/94.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-230 Long-term suspension. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-230, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-230, filed 6/8/94, effective 7/9/94.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-234 Long-term suspension—Misconduct not a manifestation of disability—Notice. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-234, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-234, filed 6/8/94, effective 7/9/94.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-236 Long-term suspension—Misconduct not a manifestation of disability—Hearing. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-236, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-236, filed 6/8/94, effective 7/9/94.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-260 Reentry meeting following suspension. [Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. WSR 11-05-033, § 148-120-260, filed 2/8/11, effective 3/11/11.] Repealed by WSR 25-09-037, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022.

148-120-300 Disciplinary exclusion—Definitions. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-300, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-301 Change of placement for disciplinary removals. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-301, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-302 Removals—Ten school days or less. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-302, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-303 Required services. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-303, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-304 Change of placement—Removals for weapons or drugs. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-304, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-305 Functional behavioral assessment and intervention plan. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-305, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-306 Dangerous behavior—Authority of hearing officer. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-306, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-307 Determination of interim alternative educational setting. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-307, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-308 Manifestation determination review requirements. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-308, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

148-120-309 Procedures for conducting a manifestation determination. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-309, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

- 148-120-310 Determination that behavior was not manifestation of disability. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-310, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.
- 148-120-311 Expedited due process hearings. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-311, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.
- 148-120-312 Placement during appeals. [Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-312, filed 7/27/01, effective 8/27/01.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.
- 148-120-313 Referral to and action by law enforcement and judicial authorities. [Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-313, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-313, filed 7/27/01, effective 8/27/01.] Repealed by WSR 25-09-037, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022.
- 148-120-314 Aversive interventions. [Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. WSR 11-05-033, § 148-120-314, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.011. WSR 01-16-100, § 148-120-314, filed 7/27/01, effective 8/27/01.] Repealed by WSR 16-10-061, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.0191 and 28A.300.285.
- 148-120-400 Emergency expulsion—Limitations. [Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-400, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.023. WSR 04-02-002, § 148-120-400, filed 12/24/03, effective 1/24/04.] Repealed by WSR 25-09-037, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), and 28A.600.010 through 28A.600.022.
- 148-120-405 Emergency expulsion—Notice of hearing—Waiver of hearing right. [Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-405, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.023. WSR 04-02-002, § 148-120-405, filed 12/24/03, effective 1/24/04.] Repealed by WSR 25-09-037, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022.
- 148-120-410 Emergency expulsion—Prehearing and hearing process. [Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-410, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.023. WSR 04-02-002, § 148-120-410, filed 12/24/03, effective 1/24/04.] Repealed by WSR 25-09-037, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022.
- 148-120-415 Appeals—Long-term suspension and expulsion. [Statutory Authority: RCW 72.40.023. WSR 04-02-002, § 148-120-415, filed 12/24/03, effective 1/24/04.] Repealed by WSR 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

WAC 148-120-001 Purpose and application. WAC 392-400-010, the rule for purpose, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-001, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-001, filed 5/2/16, effective 6/2/16.]

WAC 148-120-005 Definitions. For the purposes of this student conduct code, the following definitions apply:

(1) "Assistant principal" means the assistant principal of the Washington school for the deaf or designee.

(2) "Behavioral violation" means a student's behavior that violates the school's student conduct code or discipline policies.

(3) "Board" means the board of trustees for the Washington center for deaf and hard of hearing youth.

(4) "Classroom exclusion" means the exclusion of a student from a classroom and instructional or activity area for a discretionary behavioral violation that creates a disruption of the educational process in violation of the school's disciplinary policies subject to the requirements in WAC 148-120-330 through 148-120-335.

(5) "Corrective action" means disciplinary and nondisciplinary actions taken by a certificated educator. Nondisciplinary actions include evidence-based interventions and support outlined in RCW 28A.410.270, 28A.405.100, and 28A.410.260 to support the student in meeting behavioral expectations.

(6) "Culturally responsive" has the same meaning as "cultural competency" in RCW 28A.410.270.

(7) "Director" means the director of the Washington center for deaf and hard of hearing youth or designee.

(8) "Discretionary discipline" means a disciplinary action taken by the school for student behavior that violates rules of student conduct adopted by the board under RCW 28A.600.015(6). Discretionary discipline does not include evidence-based interventions and support outlined in RCW 28A.410.270, 28A.405.100, and 28A.410.260 to support the student in meeting behavioral expectations.

(9) "Disruption of the educational process" means the interruption of classwork, the creation of disorder, or the invasion of the rights of a student or group of students.

(10) "Emergency removal" means the removal of a student from school because the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process, subject to the requirements in WAC 148-120-510 through 148-120-530.

(11) "Expulsion" means a denial of admission to the Washington school for the deaf in response to a behavioral violation, subject to the requirements in WAC 148-120-430 through 148-120-480.

(12) "Length of an academic term" means the total number of school days in a semester, as defined by the school.

(13) "Nondiscretionary discipline" means:

(a) Violations of RCW 28A.600.420;

(b) An offense listed in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff. RCW 28A.600.015.

(14) "Parent" has the same meaning as in WAC 392-172A-01125.

(15) "Principal" means the principal of the Washington school for the deaf or designee.

(16) "School" means the Washington school for the deaf.

(17) "School business day" means any calendar day, except Saturdays, Sundays, or any federal, state, or school holiday, when the school is open to the public for business.

(18) "School day" means any day or partial day that students are in attendance at school for instructional purposes.

(19) "Superintendent" means the superintendent of the Washington school for the deaf or designee.

(20) "Suspension" means a denial of attendance in response to a behavioral violation from any subject or class, or from any full schedule of subjects or classes, but not including expulsions or emergency removals.

(a) "In-school suspension" means a suspension in which a student is excluded from the student's regular educational setting but remains in the student's current school placement for up to 10 consecutive school days, subject to the requirements in WAC 148-120-430 through 148-120-470.

(b) "Long-term suspension" means a suspension in which a student is excluded from school for more than 10 consecutive school days, subject to the requirements in WAC 148-120-430 through 148-120-470.

(c) "Short-term suspension" means a suspension in which a student is excluded from school for up to 10 consecutive school days, subject to the requirements in WAC 148-120-430 through 148-120-470.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-005, filed 4/9/25, effective 5/10/25.]

WAC 148-120-010 Student responsibilities and duties. Washington school for the deaf is dedicated to offering its students an opportunity for the best education for deaf and hard-of-hearing students in the state of Washington. Concomitant to the rights and privileges guaranteed by federal and state law to students are duties and responsibilities of each student to pursue their course of studies, show respect for the rights of others, comply with written rules adopted herein and set forth in student handbooks, and submit to reasonable corrective action for violation(s) for such rules. This chapter is intended to assure that corrective action is imposed for just cause and in a fair and reasonable manner.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-010, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-010, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-010, filed 6/8/94, effective 7/9/94.]

WAC 148-120-012 Jurisdiction. The student conduct code shall apply to student conduct that occurs on school premises, during transportation to and from school, to conduct that occurs at or in connection with school-sponsored programs or activities, or to off-campus conduct (or in nonschool electronic environments) that in the judgment of the school threatens safety or security or otherwise adversely impacts the school community.

[Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-012, filed 5/2/16, effective 6/2/16.]

WAC 148-120-015 Student rights. (1) Each student shall possess the following substantive rights:

(a) No student shall be unlawfully denied an equal educational opportunity or be unlawfully discriminated against because of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal.

(b) Students possess the constitutional right to freedom of speech and press, and the constitutional right to peaceably assemble and to petition the government and its representatives for a redress of grievances.

(c) Students possess the rights, guaranteed under the Constitution, to the free exercise of religion and to have their school free

from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising such right.

(d) Students possess the constitutional right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures, subject to limitations set forth in RCW 28A.600.210 through 28A.600.240 as now or hereafter amended.

(e) Students have the right to be free from unlawful interference in their pursuit of an education while enrolled at the Washington school for the deaf.

(f) Students shall not be deprived of the right to an equal educational opportunity in whole or in part by the Washington school for the deaf without due process including:

(i) Notice to the accused student of the nature of the charges and the proposed disciplinary action; and

(ii) The opportunity to request a hearing as set forth in this chapter.

(2) The foregoing enumeration of rights shall not be construed to deny or disparage other rights guaranteed in the Constitution and the laws of the state of Washington.

(3) The school shall publish and make available to all students and parents, on an annual basis, written rules which state with reasonable clarity the types of misconduct for which disciplinary action may be imposed.

[Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-015, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-015, filed 6/8/94, effective 7/9/94.]

WAC 148-120-020 References to OSPI's rules. Where OSPI's rules are incorporated by reference: "School district" means "Washington school for the deaf"; "school district superintendent" means "superintendent of the Washington school for the deaf." These substitutions should be made as appropriate. They should not be made where the "school district" referred to is the student's district of residence.

[Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-020, filed 5/2/16, effective 6/2/16.]

WAC 148-120-025 Referral to and action by law enforcement and judicial authorities. (1) Nothing in Part B of the Individuals with Disabilities Education Act, or this chapter prohibits the Washington school for the deaf from reporting a crime committed by a student to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student.

(2) When reporting a crime committed by a student, the school shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime, to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-025, filed 4/9/25, effective 5/10/25.]

WAC 148-120-030 Application. This chapter must be construed in a manner consistent with the following laws and rules:

(1) RCW 28A.600.010 through 28A.600.022 and 28A.320.211, regarding the administration of student discipline;

(2) RCW 28A.300.042, regarding the collection, reporting, and disaggregation of student-level discipline data;

(3) Chapter 392-190 WAC, prohibiting unlawful discrimination in Washington public schools, including the requirement under WAC 392-190-048 that school districts annually review disaggregated discipline data to identify and address disproportionality in the administration of discipline on the basis of sex, race, limited-English proficiency (i.e., English learners), and disability, including students protected under Section 504 of the Rehabilitation Act of 1973 and Part B of the Individuals with Disabilities Education Act;

(4) WAC 392-172A-05140 through 392-172A-05175, and 34 C.F.R. Part 300.530 through 300.536, regarding the discipline of students with disabilities under the Individuals with Disabilities Education Act; and

(5) RCW 28A.415.410, regarding training to support school personnel in implementing discipline policies and procedures and gaining knowledge and skills in cultural competence.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-030, filed 4/9/25, effective 5/10/25.]

CONDUCT RULES

WAC 148-120-110 Behavioral violations. Having sought the participation of school personnel, students, parents, families, and the community, the school has developed definitions for the following behavioral violations, which state the types of behaviors for which discipline may be administered.

The school may impose disciplinary sanctions against a student who commits, or aids, abets, incites, encourages or assists another person to commit, behavioral violations set forth in this section. As applicable, the term "conduct" includes acts performed by electronic means.

(1) **Personal offenses.** The term "personal offense" is an offense against the safety or security of any person and includes physical assault, reckless endangerment, physical or verbal abuse, threats, intimidation, harassment, bullying, stalking, invasion of privacy, extortion, hazing, or other similar conduct that harms any person, or that is reasonably perceived as threatening the health or safety of any person, or that has the purpose or effect of unlawfully interfering with any person's rights. The term includes personal offenses committed by electronic means.

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(c) Extortion is obtaining money, property, sexual favors, or other consideration by violence or threat of violence or forcing a person to do something against their will by violence or threat of violence.

(d) Hazing includes any initiation into a student organization or involvement in any pastime or amusement with said organization that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student.

(2) **Property violations.** The term "property violation" includes the theft, misappropriation, unauthorized use or possession, vandalism, conversion, or other nonaccidental damaging or destruction of school property or the property of another person; including possession of such property or money after it has been stolen. Property for purposes of this subsection includes computer passwords, access codes, identification cards, other confidential personal information, and intellectual property.

(3) **Sexual misconduct.** The term "sexual misconduct" includes, but is not limited to, sexual harassment and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the school's educational programs/activities or that creates an intimidating, hostile, or offensive educational environment.

Sexual harassment may include conduct or communication that involves adult to student, student to adult, student to student, adult to adult, male to female, female to male, male to male, and female to female.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex, including stalking (or cyberstalking), voyeurism, indecent exposure, or the nonconsensual recording of sexual activity or distribution of such recording.

(c) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, sexual coercion, sexual exploitation, or gender- or sex-based stalking. A person may be incapable of giving consent because she or he is underage, unable to understand what is happening, or is disoriented, helpless, asleep or unconscious for any reason, including due to drug or alcohol consumption, is disabled, or cannot consent because of threat or intimidation.

(d) **Lewd conduct.** Engaging in inappropriate sexual or social behavior, such as sexual acts, either singly or consensually with another

er person, including: Sexual intercourse, oral sex, sexual touching, indecent exposure, or voyeurism.

(4) **Disruptive or obstructive conduct.** The term "disruptive" or "obstructive conduct" means conduct, not protected by law, that interferes with, impedes, or otherwise unreasonably hinders the normal teaching, learning, administrative, or other functions, procedures, services, programs, or activities of the school. The term includes disorderly conduct, breach of the peace, lewd or obscene conduct, obstruction of pedestrian or vehicular traffic, or interfering with the orderly conduct of school investigations or disciplinary proceedings, including interfering with or retaliating against any complainant, witness, or other participant.

(5) **Failure to comply.** Refusal or failure to comply with instructions or directions of school officials, refusing to comply with any term or condition of a disciplinary sanction.

(6) **Safety violations.** Any nonaccidental conduct that interferes with or otherwise compromises any school policy, equipment, or procedure relating to the safety and security of the center and school community, including tampering with or disabling safety equipment and triggering false alarms or other emergency response systems.

(7) **False or deceptive conduct.** The term "false" or "deceptive conduct" means dishonest conduct (other than academic dishonesty) that includes forgery, altering or falsifying of school records, furnishing false or misleading information, or falsely accusing any person of misconduct.

(8) **Academic dishonesty.** All forms of cheating, plagiarism and fabrication.

(a) **Cheating.** Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment. This includes assisting another to commit an act of academic dishonesty or allowing someone to do these things for one's benefit.

(b) **Plagiarism.** Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to a teacher concerning the completion of an assignment.

(9) **Unauthorized access.** The term "unauthorized access" means gaining entry without permission to any restricted area or property of the school or the property of another person, including any computer system, email account, or electronic or paper files. Unauthorized access includes computer hacking and the unauthorized possession or sharing of any restricted means of gaining access, including keys, keycards, passwords, or access codes.

(10) **Alcohol, drug and tobacco violations.**

(a) **Alcohol.** Use, possession, delivery, or being visibly under the influence of any alcoholic beverages.

(b) **Marijuana.** Use, possession, delivery, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form.

(c) **Drug.** Use, possession, distribution, delivery, or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescri-

bed for a student's use by a licensed practitioner. The abuse, misuse, or unlawful sale or distribution of prescription or over-the-counter medications may also constitute a drug violation.

(d) **Drug or alcohol paraphernalia.** Use, possession, distribution, or delivery of any drug or alcohol related paraphernalia. Possession of paraphernalia includes any item that can be used to ingest or conceal drugs or alcohol.

(e) **Tobacco.** Smoking or use of tobacco, tobacco products, electronic smoking devices, vape products, or other smoking devices.

(11) **Retaliation.** Harming, threatening, intimidating, coercing or taking adverse action of any kind against a person because such person reported an alleged violation of this code or other school policies, provided information about an alleged violation, or participated as a witness or in any other capacity in an investigation or disciplinary proceeding.

(12) **Weapons violations.** A "weapons violation" includes possessing, carrying, displaying, exhibiting, or storing any firearm or dangerous weapon. Dangerous weapons include, but are not limited to, firearms, dangerous chemicals, explosives, slingshots, sand clubs, metal knuckles, daggers, dirks, spring blade knives, nunchaku sticks, throwing stars, air guns, stun guns, and devices used or intended to be used as a weapon to injure a person by an electric shock, charge, or impulse.

(13) **Harassment, intimidation, or bullying.** Harassment, intimidation, or bullying means any intentional electronic, written, signed, verbal or physical act including, but not limited to, one shown to be motivated by race, color, religion, ancestry, national origin, gender, sexual orientation including gender identity or expression, mental or physical disability, socio-economic status, physical appearance, or other distinguishing characteristic, when the act:

(a) Physically harms a student or damages the student's property;

(b) Has the effect of substantially interfering with a student's education;

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) 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 harassment, intimidation, or bullying.

"Intentional act" refers to the individual's choice to engage in the act rather than the ultimate impact of the action(s).

Harassment, intimidation, and bullying are often carried out through acts of misconduct, which are addressed and prohibited under other rules in this chapter.

(14) **Gang activity.** Claiming membership in, association with, affiliation with, or participation in a gang, in gang-related activities or similar destructive or illegal group behavior at school, during school-related functions, or on any school property. "Gang" has the meaning given the term under RCW 28A.600.455.

(15) **Theft or misuse of electronic resources.** Theft or misuse of computer time or other electronic information resources of the school. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person;

(g) Use of such time or resources to interfere with normal operation of the school's computing system or other electronic information resources;

(h) Use of such time or resources in violation of applicable copyright or other law;

(i) Failure to comply with the student computing resources policy.

(16) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(17) **Prohibited items.** The school prohibits:

(a) Pornography. Possession, distribution, display, creation, or production of sexually explicit or erotic material. Sexually explicit material includes material defined in RCW 9.68.130. Erotic material includes material defined in RCW 9.68.050.

(b) Disruptive items. Possession, distribution, or use of items that may disrupt the educational process during school hours. Disruptive items include sound amplification devices, squirt guns, water balloons, firecrackers, skateboards, rollerblades, other "recreational wheels," skiing gloves, or video games.

(c) Discriminatory materials. Possession, distribution, or use of materials that degrade, insult, or malign another person based on that person's race, color, national origin, religion, disability, age, gender, sexual orientation, or other protected status.

(18) **Violation of other laws or policies.** Violation of any federal, state, local law, rule, or regulation or other school rules or policies which are published annually in the student/parent handbook.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-110, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-110, filed 5/2/16, effective 6/2/16.]

DISCIPLINE

WAC 148-120-205 Limitations. (1) The school will not administer discipline in a manner that would prevent a student from completing subject, grade-level, or graduation requirements; provided, that a student's academic grade or credit in a particular subject or course may be adversely affected as a result of excessive tardiness or absences.

(2) The school will not suspend the provision of educational services to a student in response to behavioral violations.

(3) The school will not administer any discipline in a manner that would result in the denial or delay of a nutritionally adequate meal to the student.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-205, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-205, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. WSR 11-05-033, § 148-120-205, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-205, filed 6/8/94, effective 7/9/94.]

WAC 148-120-210 Staff authority to impose discipline. (1) In accordance with this chapter and school policy, staff will administer discipline in ways that respond to the needs and strengths of students, support students in meeting behavioral expectations, and keep students in the classroom to the maximum extent possible.

(2) The director has general authority to administer discipline, including all exclusionary discipline.

(3) The director designates disciplinary authority to impose:

(a) In-school suspension and short-term suspension to the assistant principal, principal, or superintendent;

(b) Long-term suspension to the assistant principal, principal, or superintendent;

(c) Expulsion to the assistant principal, principal, or superintendent; and

(d) Emergency removal to the assistant principal, principal, or superintendent.

(4) The director authorizes the director of residential services, assistant principal, principal, or superintendent to administer discretionary or nondiscretionary discipline that excludes a student from transportation services or extracurricular activities or imposes detention.

(a) The school will not exclude a student from transportation services without providing access to alternative transportation the student needs to participate fully in educational services.

(b) Authorized staff may administer lunch or after school detention for not more than 60 minutes on any given day.

(c) Before assigning detention, the staff member will inform the student of the specific behavioral violation prompting their decision to administer detention and provide the student with an opportunity to share their perspective and explanation regarding the behavioral violation.

(d) At least one school staff member will directly supervise students during the direction of any detention.

(e) Students and parents may challenge the administration of discretionary and nondiscretionary discipline other than suspensions, expulsions, and emergency removals, including discipline that excludes a student from transportation or extracurricular activity, using the school's grievance procedures under WAC 148-120-215.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-210, filed 4/9/25, effective 5/10/25. Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-210, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.022. WSR 94-13-058, § 148-120-210, filed 6/8/94, effective 7/9/94.]

WAC 148-120-215 Grievance procedures for discretionary and non-discretionary discipline other than suspensions, expulsions, and emergency removals.

(1) Any parent or student who is aggrieved by the administration of discretionary and nondiscretionary discipline other than suspensions, expulsions, and emergency removals, including discipline that excludes a student from transportation or extracurricular activity, may request an informal conference with the principal for resolving the grievance.

(2) At the informal conference, the student and parent will have the opportunity to voice issues and concerns related to the grievance. The principal will have the opportunity to address issues and questions raised and to ask questions of the parent or student.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-215, filed 4/9/25, effective 5/10/25.]

WAC 148-120-250 Discipline procedures. Disciplinary procedures for students at the school who are eligible for special education shall follow the requirements in WAC 392-172A-05140 through 392-172A-05175, which are adopted by reference. In addition to the rules and procedures in this chapter, students may also be subject to rules and procedures governing discipline for all students in public schools in chapter 392-400 WAC. The school shall determine on a case-by-case basis whether and to what extent the rules and procedures in chapter 392-400 WAC may apply.

[Statutory Authority: RCW 72.40.0191 and 28A.300.285. WSR 16-10-061, § 148-120-250, filed 5/2/16, effective 6/2/16. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. WSR 11-05-033, § 148-120-250, filed 2/8/11, effective 3/11/11.]

CLASSROOM EXCLUSIONS

WAC 148-120-330 Classroom exclusions—Conditions and limitations.

(1) **Authority to administer classroom and instructional or activity area exclusions.** Discretionary discipline leading to a classroom exclusion gives the highest consideration to the judgment of

qualified certificated educators regarding the conditions necessary to maintain the optimum learning experience.

(2) A teacher may exclude a student from the teacher's individual classroom and instructional or activity area while the student is under the teacher's immediate supervision, subject to the requirements in WAC 392-400-110. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. A classroom exclusion does not include actions that result in missed instruction for a brief duration when:

(a) A teacher or other school personnel uses evidence-based classroom management practices outlined in RCW 28A.410.270, 28A.405.100, and 28A.410.260 to support the student in meeting behavioral expectations; and

(b) The student remains under the supervision of the teacher or other school personnel during such brief duration.

(3) Duration of classroom exclusion.

(a) A classroom exclusion may be administered for all or any portion of the balance of the school day, or up to the following two school days, or until the principal and teacher have conferred, whichever occurs first.

(b) A classroom exclusion that exceeds this time period, and if such students have repeatedly disrupted the learning of other students, may be considered a suspension in accordance with this chapter and must provide for the early involvement of parents in attempts to improve the student's behavior.

(4) All staff will work cooperatively toward consistent enforcement of proper student behavior throughout the school, as well as within each classroom.

(5) **Assignments and tests.** The school must provide the student an opportunity to make up any assignments and tests missed during the classroom exclusion.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-330, filed 4/9/25, effective 5/10/25.]

WAC 148-120-335 Classroom exclusion—Notice and procedure. Following a classroom exclusion under WAC 148-120-330:

(1) The teacher must communicate and collaborate with students, families, and all educational stakeholders in an ethical and professional manner to promote student learning. WAC 392-400-110.

(2) **Notice to principal.** The teacher or other school personnel must report the classroom exclusion, including the behavioral violation that led to the classroom exclusion, to the principal as soon as reasonably possible.

(3) **Notice to parents.** The teacher or principal must notify the student's parents regarding the classroom exclusion as soon as reasonably possible. The school must ensure that this notification is in a language the parents understand, which may require language assistance for parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(4) **Emergency circumstances.** When a teacher administers a classroom exclusion on the grounds that the student's presence poses an immediate and continuing danger to other students or school personnel,

or an immediate and continuing threat of material and substantial disruption of the educational process:

(a) The teacher or other school personnel must immediately notify the principal; and

(b) The principal must meet with the student as soon as reasonably possible and administer appropriate discipline.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-335, filed 4/9/25, effective 5/10/25.]

SUSPENSIONS AND EXPULSIONS

WAC 148-120-430 Suspensions and expulsions—General conditions and limitations. WAC 392-400-430, the rule for suspensions and expulsions, general conditions and limitations, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-430, filed 4/9/25, effective 5/10/25.]

WAC 148-120-435 Short-term and in-school suspensions—Additional conditions and limitations. WAC 392-400-435, the rule for short-term and in-school suspensions, additional conditions and limitations, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-435, filed 4/9/25, effective 5/10/25.]

WAC 148-120-440 Long-term suspensions—Additional conditions and limitations. WAC 392-400-440, the rule for long-term suspensions, additional conditions and limitations, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-440, filed 4/9/25, effective 5/10/25.]

WAC 148-120-445 Expulsions—Additional conditions and limitations. WAC 392-400-445, the rule for expulsions, additional conditions and limitations, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-445, filed 4/9/25, effective 5/10/25.]

WAC 148-120-450 Suspensions and expulsions—Initial hearing with student. WAC 392-400-450, the rule for suspensions and expulsions, initial hearing with student, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-450, filed 4/9/25, effective 5/10/25.]

WAC 148-120-455 Suspensions and expulsions—Notice to student and parents. WAC 392-400-455, the rule for suspensions and expulsions, notice to student and parents, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-455, filed 4/9/25, effective 5/10/25.]

WAC 148-120-460 Suspensions and expulsions—Optional conference with principal. WAC 392-400-460, the rule for suspensions and expulsions, optional conference with principal, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-460, filed 4/9/25, effective 5/10/25.]

WAC 148-120-465 Suspensions and expulsions—Appeal. (1) **Requesting an appeal.** A student or the parents may appeal a suspension or expulsion to the school's superintendent orally or in writing.

(2) **Time limit.** A request for an appeal should be submitted within 21 calendar days from the date the school provides written notice under WAC 148-120-455.

(3) **Short-term and in-school suspensions.**

(a) **Appeal.** The superintendent must provide the student and parents the opportunity to share the student's perspective and explanation regarding the behavioral violation orally or in writing.

(b) **Appeal decision.** The superintendent must deliver a written appeal decision to the student and parents in person, by mail, or by email within two school business days after receiving the appeal. The written appeal decision is an initial order. The initial order must include:

(i) The decision to affirm, reverse, or modify the suspension;

(ii) The duration and conditions of the suspension, including the dates on which the suspension will begin and end;

(iii) The educational services the school will offer to the student during the suspension under WAC 148-120-610; and

(iv) Notice of the student's and parents' right to request review and reconsideration of the initial decision under WAC 148-120-470, including where and to whom to make the request. If no request for review is filed within 21 calendar days of service of the initial order, the initial order shall be deemed the final order.

(4) **Long-term suspensions and expulsions.**

(a) Student disciplinary proceedings under this section shall be governed by the Administrative Procedure Act, chapter 34.05 RCW and by the model rules of procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(b) **Notice.** Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent must provide the student and parents written notice in person, by mail, or by email of:

- (i) The time, date, and location of the appeal hearing;
- (ii) The name(s) of the official(s) presiding over the appeal;
- (iii) The student's and parents' rights to inspect the student's education record under (f) of this subsection;
- (iv) The student's and parents' right to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under (f) of this subsection;
- (v) The student's and parents' rights under (g) of this subsection; and
- (vi) Whether the school will offer to hold a reengagement meeting under WAC 148-120-710 before the appeal hearing.

(c) **Reengagement.** Before the appeal hearing, the student, parents, and school may agree to hold a reengagement meeting and develop a reengagement plan under WAC 148-120-710. The student, parents, and school may mutually agree to postpone the appeal hearing while participating in the reengagement process.

(d) **Appeal hearing.** The school must hold an appeal hearing within three school business days from the date the superintendent received the appeal request, unless otherwise agreed to by the student or parents.

(e) **Presiding officials.** The superintendent will serve as the presiding official to hear and decide appeals for long-term suspensions and expulsions under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to suspend or expel the student and must be knowledgeable about the rules in this chapter, chapters 392-400 and 148-108 WAC, and of the school's discipline policies.

(f) **Evidence and witnesses.**

(i) Upon request, the student, parents, and school may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(ii) Upon request, the student and parents may review the student's education records. The school must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(iii) If a witness for the school cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the school establishes that:

- (A) The school made a reasonable effort to produce the witness; and
- (B) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(g) **Student and parent rights.** During the appeal hearing, the student and parents have the right to:

- (i) Be represented by legal counsel;
- (ii) Question witnesses;
- (iii) Share the student's perspective and explanation regarding the behavioral violation; and
- (iv) Introduce relevant documentary, physical, or testimonial evidence.

(h) **Recording of hearing.** The appeal hearing must be recorded by analog, digital, or other type of recording device. The school must provide the recording to the student or parents upon request.

(i) **Appeal decision.** The presiding official(s) must base the decision solely on the evidence presented at the hearing. The presiding official(s) must provide a written decision to the student and parents in person, by mail, or by email within three school business days after the appeal hearing. The written decision must include:

(i) The findings of fact;

(ii) A determination whether:

(A) The student's behavior violated the school's student code of conduct, chapter 148-120 WAC;

(B) The behavioral violation reasonably warrants the suspension or expulsion and the length of the suspension or expulsion; and

(C) The suspension or expulsion is affirmed, reversed, or modified;

(iii) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end;

(iv) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 148-120-470, including where and to whom to make the request; and

(v) Notice of the opportunity to participate in a reengagement meeting under WAC 148-120-710 and the contact information for the person who will coordinate scheduling of the reengagement meeting.

(5) **Language assistance.** The school must ensure that the notice, appeal proceedings, and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(6) **Pending appeal.** If the student or parents request any appeal under this section, the school may temporarily continue to administer the suspension or expulsion during the appeal period subject to the following requirements:

(a) The school may temporarily continue to administer the suspension or expulsion for no more than 10 consecutive school days from the initial hearing under WAC 148-120-450 or until the appeal is decided, whichever is earlier;

(b) Any days that the student is temporarily suspended or expelled before the appeal is decided must be applied to the term of the student's suspension or expulsion and may not extend the term of the student's suspension or expulsion;

(c) If the student who is temporarily suspended or expelled returns to school before the appeal is decided under this section, the school must provide the student with an opportunity to make up assignments and tests missed during the suspension or expulsion upon the student's return.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-465, filed 4/9/25, effective 5/10/25.]

WAC 148-120-470 Suspensions and expulsions—Review and reconsideration. (1) **Requesting review.** For the purposes of this section, "reviewing officer" means the director who reviews and reconsiders the

school's appeal decision under WAC 148-120-465. The student or parents may request the review orally or in writing.

(2) **Time limit.** A request for a review of short-term suspension, in-school suspension, long-term suspension, or expulsion should be submitted within 21 calendar days from the date the school provides written notice under WAC 148-120-465.

(3) **Review procedure.**

(a) In reviewing the school's decision, the reviewing officer must consider all documentary and physical evidence related to the behavioral violation, and any records from the appeal under WAC 148-120-465, relevant state law, and the school's student conduct code under this chapter.

(b) The reviewing officer may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather additional information.

(c) The reviewing officer must not have been involved in the behavioral violation, the decision to suspend or expel the student, or the appeal decision under WAC 148-120-465.

(4) **Decision.** The reviewing officer must provide a written decision to the student and parents in person, by mail, or by email within 10 school business days after receiving the request for review and reconsideration. The written decision must state:

(a) Whether the reviewing officer affirms, reverses, or modifies the suspension or expulsion;

(b) The duration and conditions of the suspension or expulsion, including the dates on which the suspension and expulsion will begin and end;

(c) For long-term suspensions or expulsions, notice of the opportunity to participate in a reengagement meeting under WAC 148-120-710; and

(d) A notice that the reviewing officer's decision shall be final and shall include a notice of any rights to request reconsideration or judicial review. A request for review may be deemed to have been denied if the reviewing officer does not make a disposition of the matter within 20 calendar days after the request is submitted.

(5) **Language assistance.** The school must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-470, filed 4/9/25, effective 5/10/25.]

WAC 148-120-475 Discipline appeal council. The board designates a discipline appeal council to review and reconsider the superintendent's written decision granting a petition to extend expulsion under WAC 148-120-480. A discipline appeal council must consist of at least three persons appointed by the board for fixed terms. All members of the discipline appeal council must be knowledgeable about the rules in this chapter and of the school's discipline policies and procedures.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-475, filed 4/9/25, effective 5/10/25.]

WAC 148-120-480 Petition to extend expulsion. (1) Petition.

When risk to public health or safety warrants extending a student's expulsion, the principal may petition the school's superintendent for authorization to exceed the academic term limitation on an expulsion. The petition must inform the superintendent of:

- (a) The behavioral violation that resulted in the expulsion and the public health or safety concerns;
- (b) The student's academic, attendance, and discipline history;
- (c) Any nonacademic supports and behavioral services the student was offered or received during the expulsion;
- (d) The student's academic progress during the expulsion and the educational services available to the student during the expulsion;
- (e) The proposed length of the expulsion; and
- (f) The student's reengagement plan.

(2) **Time limit.** The principal may petition to extend an expulsion only after the development of a reengagement plan under WAC 148-120-710 and before the end of the expulsion. For violations of WAC 148-120-820, the principal may petition to extend an expulsion at any time.

(3) **Notice.** The school must provide written notice of the petition to the student and parents in person, by mail or by email within one school business day from the date the superintendent received the petition. The written notice must include:

- (a) A copy of the petition;
- (b) The student's and parents' right to an informal conference with the superintendent to be held within five school business days from the date the school provided written notice to the student and parents; and
- (c) The student's and parents' right to respond to the petition orally or in writing to the superintendent within five school business days from the date the school provided written notice.

(4) **Written decision.** The superintendent may grant the petition only if there is substantial evidence that, if the student were to return to the school after the length of an academic term, the student would pose a risk to public health or safety. The superintendent must deliver a written decision to the principal, the student, and the student's parents in person, by mail, or by email within 10 school business days after receiving the petition.

(a) If the petition is granted, the written decision must include:

- (i) The date on which the extended expulsion will end;
- (ii) The reason that, if the student were to return before the initial expulsion end date, the student would pose a risk to public health or safety; and
- (iii) Notice of the student's or parents' right to request review and reconsideration of the appeal decision under subsection (5) of this section, including where and to whom to make the request.

(b) If the petition is not granted, the written decision must identify the date on which the expulsion will end.

(5) **Review and reconsideration.**

(a) **Requesting review.** The student or parents may request that the discipline appeal council review and reconsider the decision to extend the student's expulsion. The student or parents may request the review orally or in writing.

(b) **Time limit.** A request for review should be submitted within 21 calendar days from the date the school provides a written decision under subsection (4) of this section.

(c) **Review procedure.**

(i) The discipline appeal council may request to meet with the student or parents or the principal to hear further arguments and gather additional information.

(ii) The decision of the discipline appeal council may be made only by council members who were not involved in the behavioral violation, the decision to expel the student, or the appeal decision under WAC 148-120-465.

(d) **Decision.** The discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within 10 school business days after receiving the request for review and reconsideration. The written decision must state:

(i) Whether the council affirms, reverses, or modifies the decision to extend the student's expulsion;

(ii) The date on which the extended expulsion will end; and

(iii) A notice that judicial review may be available. A request for review may be deemed to have been denied if the discipline appeal council does not make a disposition of the matter within 20 calendar days after the request is submitted.

(6) **Duration.** Any extension of an expulsion may not exceed the length of an academic term.

(7) **Language assistance.** The school must ensure that any petition proceedings, notices, and decisions are provided in a language the student and parents understand, which may require assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(8) **Annual reporting.** The school must annually report the number of petitions approved and denied to the office of the superintendent of public instruction.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-480, filed 4/9/25, effective 5/10/25.]

EMERGENCY REMOVAL

WAC 148-120-510 Emergency removals—Conditions and limitations.

WAC 392-400-510, the rule for emergency removals, conditions and limitations, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-510, filed 4/9/25, effective 5/10/25.]

WAC 148-120-515 Emergency removals—Notice to student and parents.

WAC 392-400-515, the rule for emergency removals, notice to student and parents, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-515, filed 4/9/25, effective 5/10/25.]

WAC 148-120-520 Emergency removals—Options conference with principal. WAC 392-400-520, the rule for emergency removals, optional conference with principal, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-520, filed 4/9/25, effective 5/10/25.]

WAC 148-120-525 Emergency removals—Appeal. (1) **Requesting an appeal.** A student or the parents may appeal an emergency removal to the superintendent orally or in writing.

(2) **Time limit.** A request to appeal an emergency removal should be submitted within 21 calendar days from the date the school provides the written notice of the emergency removal.

(3) **Notice.** Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent must provide the student and parents written notice in person, by mail, or by email of:

(a) The time, date, and location of the appeal hearing;

(b) The name(s) of the official(s) presiding over the appeal;

(c) The student's and parents' rights to inspect the student's education records under subsection (6) of this section;

(d) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under subsection (6) of this section; and

(e) The student's and parents' rights under subsection (7) of this section.

(4) **Appeal hearing.** The school must hold an appeal hearing as soon as reasonably possible, but no later than two school business days after the date the superintendent received the appeal request, unless otherwise agreed to by the student and parents.

(5) **Presiding official(s).** The superintendent will decide appeals under this section. The superintendent may not have been involved in the student's behavioral violation or decision to emergency remove the student and must be knowledgeable about the rules in this chapter, chapter 392-400 WAC, and the school's discipline policies and procedures.

(6) **Evidence and witnesses.**

(a) Upon request, the student, parents, and school may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(b) Upon request, the student and parents may review the student's education records. The school must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(c) If a witness for the school cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the school establishes that:

(i) The school made a reasonable effort to produce the witness; and

(ii) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(7) **Student and parent rights.** The student and parents have the right to:

- (a) Be represented by legal counsel;
- (b) Question witnesses;
- (c) Share the student's perspective and provide explanation regarding the events that led to the emergency removal; and
- (d) Introduce relevant documentary, physical, or testimonial evidence.

(8) **Recording of hearing.** The appeal hearing must be recorded by analog, digital, or other type of recording device. The school must provide the recording to the student or parents upon request.

(9) **Appeal decision.** The school must provide a written decision to the student and parents in person, by mail, or by email within one school business day after the appeal hearing. The written decision must include:

- (a) The findings of fact;
- (b) A determination whether the student's presence continues to pose:

- (i) An immediate and continuing danger to students or school personnel; or

- (ii) An immediate and continuing threat of material and substantial disruption of the educational process.

- (c) Whether the school will end the emergency removal or convert the emergency removal to a suspension or expulsion. If the school converts the emergency removal to a suspension or expulsion, the school must provide the student and parents notice and due process under WAC 148-120-430 through 148-120-470; and

- (d) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 148-120-530, including where and to whom to make the request.

(10) **Language assistance.** The school must ensure that any appeal proceedings, notices, and decisions are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-525, filed 4/9/25, effective 5/10/25.]

WAC 148-120-530 Emergency removals—Review and reconsideration.

(1) **Requesting review.** The student or parents may request that the director review and reconsider the school's appeal decision under WAC 148-120-525. The student or parents may request the review orally or in writing.

(2) **Time limit.** A request for review under this section should be submitted within 21 calendar days from the date the school provided the written appeal decision to the student and parents under WAC 148-120-525.

(3) **Review procedure.**

- (a) In reviewing the school's decision, the director must consider all documentary and physical evidence related to the events that led to the emergency removal, any records from the appeal under WAC 148-120-525, relevant state law, and the school's discipline policy and procedures.

(b) The director may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather information.

(c) The director must not have been involved in the events that led to the emergency removal, the decision to emergency remove the student, or the appeal decision under WAC 148-120-525.

(4) **Decision.** The director must provide a written decision to the student and parents in person, by mail, or by email within five school business days after receiving the request for review and reconsideration. The written decision must state:

(a) Whether the director affirms or reverses the school's decision that the student's presence posed:

(i) An immediate and continuing danger to students or school personnel; or

(ii) An immediate and continuing threat of material and substantial disruption of the educational process;

(b) If the emergency removal has not yet ended or been converted, whether the school will end the emergency removal or convert the emergency removal to a suspension or expulsion. If the school converts the emergency removal to a suspension or expulsion, the school must provide the student and parents notice and due process under WAC 148-120-430 through 148-120-470; and

(c) A notice that judicial review may be available.

(5) **Language assistance.** The school must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-530, filed 4/9/25, effective 5/10/25.]

EDUCATIONAL SERVICES

WAC 148-120-610 Educational services during suspension, expulsion, or emergency removal. WAC 392-400-610, the rule for educational services during suspension, expulsion, or emergency expulsion, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-610, filed 4/9/25, effective 5/10/25.]

REENGAGEMENT

WAC 148-120-710 Student reengagement after long-term suspension or expulsion. WAC 392-400-710, the rule for student reengagement after long-term suspension or expulsion, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-710, filed 4/9/25, effective 5/10/25.]

ADDITIONAL DUE PROCESS PROTECTIONS

WAC 148-120-810 Exceptions for the purpose of protecting victims. WAC 392-400-810, the rule for exceptions for the purpose of protecting victims, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-810, filed 4/9/25, effective 5/10/25.]

WAC 148-120-815 Behavior agreements. (1) **Authorization.** The school authorizes the assistant principal, principal, or superintendent to enter into behavior agreements with students and parents in response to behavioral violations.

(2) **General.** Behavior agreements include agreements to reduce the length of a suspension conditioned on the student's participation in treatment services, agreements in lieu of suspension or expulsion, or agreements holding a suspension or expulsion in abeyance. Behavior agreements will describe the school's actions planned to support students in meeting behavioral expectations. Behavior agreements may be supplemental to but will not replace best practices and strategies implemented at the classroom level to support students in meeting behavioral expectations.

(3) Behavior agreements entered into with students and parents under this section may not replace or negate provisions within a student's Individual Education Plan (IEP), 504 Plan, or Behavioral Intervention Plan (BIP).

(4) **Reengagement meetings and educational services.** A behavior agreement does not waive a student's opportunity to participate in a reengagement meeting under WAC 148-120-710, or receive educational services as provided under WAC 148-120-610.

(5) **Duration.** The duration of behavior agreements must not exceed the length of an academic term.

(6) **Subsequent behavioral violation.** Nothing in this section precludes the school from administering discipline for behavioral violations that occur after the school enters into an agreement with the student and parents.

(7) **Language assistance.** The school will ensure that any behavior agreement under this section is provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-815, filed 4/9/25, effective 5/10/25.]

WAC 148-120-820 Firearms exceptions. WAC 392-400-820, the rule for firearm exceptions, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-820, filed 4/9/25, effective 5/10/25.]

WAC 148-120-825 Corporal punishment, restraint, and isolation. WAC 392-400-825, the rule for corporal punishment, restraint, and isolation, is incorporated by reference.

[Statutory Authority: RCW 34.05.010(16), 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and 28A.600.010 through 28A.600.022. WSR 25-09-037, s 148-120-825, filed 4/9/25, effective 5/10/25.]

SUPPLEMENTAL STUDENT CONDUCT PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF VIOLATION OF TITLE IX

WAC 148-120-900 Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. § 106. To the extent these supplemental hearing procedures conflict with Washington center for deaf and hard of hearing youth's standard disciplinary procedures, WAC 148-120-001 through 148-120-825, these supplemental procedures shall take precedence.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-900, filed 11/4/25, effective 12/5/25.]

WAC 148-120-905 Definitions. The following definitions shall apply for the purposes of this supplemental procedure:

- (1) "Agency" means the Washington center for deaf and hard of hearing youth.
- (2) "Complainant" means an individual who is alleged to be the subject of conduct that could constitute sexual harassment.
- (3) "Decision maker" means the director of instruction or designee.
- (4) "Appeal decision maker" means the executive director or designee.
- (5) "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-905, filed 11/4/25, effective 12/5/25.]

WAC 148-120-910 Prohibited conduct under Title IX. Pursuant to chapter 392-400 WAC and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the agency may impose disciplinary sanctions up to and including expulsion against a student who has been

found responsible for committing, attempting to commit, aiding, abetting, inciting, encouraging or assisting another person to commit or engage in acts of "sexual harassment."

For the purposes of this supplemental procedure, "sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

(1) Quid pro quo harassment. An agency employee conditioning the provision of an aid, benefit, or service of the agency on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the agency's education programs or activities.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(d) Statutory rape. Nonforcible sexual intercourse between someone who is 18 years of age or older and someone who is under the age of 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-910, filed 11/4/25, effective 12/5/25.]

WAC 148-120-915 Title IX jurisdiction. (1) This supplemental procedure applies only if the alleged misconduct:

(a) Occurred in the United States;
(b) Occurred during an agency education program or activity; and
(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "education program or activity" is defined as locations, events, or circumstances over which the agency exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the agency.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit the agency from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the agency's student conduct code, chapter 148-120 WAC.

(4) If the decision maker determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the decision maker will issue a notice of dismissal in whole or in part to both parties explaining why some or all of the Title IX claims have been dismissed.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-915, filed 11/4/25, effective 12/5/25.]

WAC 148-120-920 Initiation of discipline. (1) Upon receiving a Title IX investigation report from the Title IX coordinator, the decision maker will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the decision maker determines that there are sufficient grounds to proceed under these supplemental procedures, the decision maker will initiate a Title IX disciplinary proceeding by serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;
(b) Identify the alleged Title IX violation(s);
(c) Set forth the facts underlying the allegation(s);
(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);

- (e) Explain that the parties are entitled to be accompanied by their chosen advisors during a hearing and that:
- (i) An advisor may be an attorney; and
 - (ii) The agency will appoint an advisor of the agency's choosing at no cost to the party, if the party failed to do so; and
- (f) Explain that if a party fails to appear at a hearing, a decision of responsibility may be made in their absence.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-920, filed 11/4/25, effective 12/5/25.]

WAC 148-120-925 Rights of parties. (1) The agency's student conduct procedures, chapter 148-120 WAC, and this supplemental procedure shall apply equally to all parties.

(2) The agency bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-925, filed 11/4/25, effective 12/5/25.]

WAC 148-120-930 Evidence. The introduction and consideration of evidence by the decision maker is subject to the following procedures and restrictions:

(1) Relevance: The decision maker shall review all questions for relevance and shall explain to the party proposing the questions any decision to exclude a question as not relevant.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) No negative inference: The decision maker may not make an inference regarding responsibility solely on a witness's or party's absence from a hearing or refusal to answer questions.

(5) Privileged evidence: The decision maker shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-930, filed 11/4/25, effective 12/5/25.]

WAC 148-120-935 Determination regarding responsibility. (1) At least 10 days prior to a determination regarding responsibility, the investigator must create an investigative report that fairly summarizes relevant evidence, and send the investigative report in an electronic or hard copy format to each party and each party's advisor for their review and written response.

(2) After transmitting the investigative report to the parties, but before reaching a final determination regarding responsibility, the decision maker must give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

(3) The decision maker must issue a written determination of responsibility regarding the alleged sexual harassment. The decision maker will apply a preponderance of the evidence standard.

(4) The decision maker's written determination must be issued to the parties simultaneously and must include the following:

(a) Identification of the allegations potentially constituting sexual harassment under Title IX regulations;

(b) A description of the procedural steps taken from the time of the agency's receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and any hearings held;

(c) Findings supporting the determination;

(d) Conclusions regarding the application of the agency's student conduct code policies to the facts;

(e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and

(f) The procedures and bases for appealing the decision maker's determination.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-935, filed 11/4/25, effective 12/5/25.]

WAC 148-120-940 Appeals. (1) All parties have the right to appeal from the decision maker's determination regarding responsibility or from the agency's dismissal of any allegations contained in a formal complaint. The right to appeal is in addition to the complainant's right to appeal under state requirements and the respondent's potential appeal rights under the agency's student code of conduct.

(2) Appeals must be in writing and filed with the executive director's office within 21 calendar days of service of the decision maker's written decision. Appeals must identify the specific findings of fact and/or conclusions in the written decision or notice of dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the written decision or notice of dismissal shall be deemed final.

(3) A party may appeal the decision maker's determination regarding responsibility on the following bases:

(a) Procedural irregularity affecting the outcome of the matter;

(b) New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter;

(c) The Title IX coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or individually that affected the outcome of the matter; or

(d) Additional bases as determined by the agency.

(4) Upon receiving a timely appeal, the executive director's office will serve a copy of the appeal on all parties, who will have 10 calendar days from the date of service to submit written responses to the executive director's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the executive director's office shall serve copies of the responses to the other parties.

(5) Parties receiving a copy of the responses shall have five calendar days in which to submit a written reply addressing issues raised in the responses to the executive director's office.

(6) The appeal decision maker must not be the same decision maker who reached the determination regarding responsibility or dismissal, the investigator, or the Title IX coordinator.

(7) The appeal decision maker, based on their review of the parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the written decision are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions. The appeal decision maker must issue a written decision describing the result of the appeal and the rationale for the result. The written decision will include notice of the complainant's right to file a complaint with the office of the superintendent of public instruction under WAC 392-190-075.

(8) The executive director's office shall serve the appeal decision on the parties simultaneously.

(9) All administrative decisions reached through this process may be judicially appealed pursuant to the applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-940, filed 11/4/25, effective 12/5/25.]

WAC 148-120-945 Emergency removals. This supplemental procedure does not preclude the agency from removing a student from school on an emergency basis consistent with WAC 148-120-510 through 148-120-530.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-945, filed 11/4/25, effective 12/5/25.]

WAC 148-120-950 Disciplinary sanctions and remedies. (1) Following a determination that sexual harassment occurred, the agency may impose disciplinary sanctions. "Disciplinary sanctions" means consequences imposed on a respondent following a determination of responsibility under WAC 148-120-935. The agency will administer any disciplinary sanctions in accordance with this chapter.

(2) Any discipline imposed under this section is subject to the requirements in WAC 148-120-250, and 392-172A-05140 through 392-172A-05175.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-950, filed 11/4/25, effective 12/5/25.]