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## **SECTION II: FREEDOM, RESPONSIBILITY, AND DISCIPLINE**

### **A. ACADEMIC FREEDOM AND TENURE**

Washington State University subscribes to the 1940 Statement of Principles on Academic Freedom and Tenure With 1970 Interpretive Comments of the American Association of University Professors with the 1987-1990 revisions. A copy of the statement is available in the Faculty Senate Office and on-line at <http://www.igc.pc.org/aaup/1940stat.htm>. The section on academic freedom reads as follows:

*“Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.*

*Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.*

*College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.”*

### **B. FREEDOM OF EXPRESSION AND ACCOMPANYING RESPONSIBILITIES**

#### **1. Preamble**

Washington State University has a long history of commitment to the principle of academic freedom for faculty and students. Freedom of expression is recognized as one of the essential elements of academic freedom. On a healthy campus, there is respect for the dignity and worth of all members of the campus community and a concern for the rights of others. The following statement describes the position of Washington State University with respect to these freedoms and accompanying responsibilities. It applies to all members of the University community—faculty, administrators, students, and staff.

#### **2. Policy**

It is the policy of Washington State University to support and promote the rights of all individuals to express their view and opinions for or against actions or ideas in which they have an interest, to associate freely with others, and to assemble peacefully. The faculty has the right to dissent and protest.

The above rights exist in equal measure for each member of the University community. They exist regardless of the professional stature of the individual and regardless of the degree of acceptability among others of views or opinions advocated.

In order that these rights may be exercised by all and that orderly functioning of the University may be assured, certain limitations must be placed upon the manner in which these freedoms are exercised.

Accordingly, Washington State University insists that the free expression of views and opinions, whether by individuals or by groups, be such that the rights of others are not violated. Use of physical means to disrupt the educational processes and functions of the University, including classroom and laboratory activities, services, meetings, or ceremonies conducted by the University, its departments, divisions, or affiliated organizations, would constitute such a violation.

Members of the University community who violate the rights of others will be subject to appropriate disciplinary procedures. Principles of due process will be observed throughout such procedures.

## **C. FACULTY RESPONSIBILITIES**

### **1. Faculty Code of Professional Ethics**

Faculty members have obligations that derive from membership in the University community. The following Faculty Code of Professional Ethics states the expected standard of performance:

*Faculty members, guided by deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end, they devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although they may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry. Those who have instructional responsibilities are responsible to the University, their departments, and their students to perform in a conscientious and ethical manner all instructional tasks assigned to them.*

### **2. Duties**

As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly standards of their disciplines. They demonstrate respect for the student as an individual and adhere to their proper role as intellectual guides and counselors. They make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect their true merit. They respect the confidential nature of the relationship between professor and student. They avoid exploitation of students for their private advantage and acknowledge significant assistance from them. They protect students' academic freedom.

As officers of the University, the faculty members seek above all to increase the University's effectiveness. Although they observe the stated regulations of the University, they maintain their right to criticize and seek revision within appropriate means. In consultation with department Chairs, they determine the amount and character of the work to be done outside the University with due regard to their paramount responsibilities within it and requisites of state and federal law. When considering interrupting or terminating their services, they recognize the effects of their decisions upon the programs of the University and give due notice of such intentions.

As members of the community, faculty members have the rights and obligations of all citizens. They measure the urgency of these obligations in the light of responsibilities to students, to the profession, and to the University. When they speak or act as private persons, they make clear that they are not speaking or acting for the University. They model the principles of reasoned and rational discourse which they pursue in the academic community in their speech and actions as private citizens, thereby extending their public service in that realm. As citizens who are part of an institution that depends upon freedom for its health and integrity, the faculty members have particular obligations to promote conditions of free inquiry and to further public understanding of academic freedom.

### **3. Faculty Availability**

Consistent with the University's emphasis on undergraduate and graduate education and research, advising, and personal contact between faculty and students it is both expected and essential that faculty be available for student consultation. This contact allows the students to meet informally with faculty for discussion and advising (professional, career or academic). It is also the appropriate time to address sensitive matters with individual students.

Today's greater technology offers many modes of prompt and flexible communication/interaction for both faculty and students. These modes include; traditional office hours, telephone, email, electronic chats, blogs, on-site meetings, video teleconferencing, and other methods. It is incumbent upon faculty to state clearly what modes of availability he/she plans to utilize. This information must be available at a minimum through the department office and to students in courses he/she is teaching and through other means such as posted on office doors, listed in the class syllabus, or on the course web page.

## **D. ETHICS IN PUBLIC SERVICE**

The Ethics in Public Service Law, RCW 42.52, (<http://www.leg.gov/wsladm/rcw.htm>) establishes a single code of ethics applicable to all state officers and state employees. Washington State University faculty members are state employees and are subject to the ethics law and rules, as well as Washington State University ethics policies. The basic provisions of the state ethics law are described below. When questions arise regarding potential ethics issues, the resources listed at the end of this subsection should be consulted.

The basic principle of the law is that public employment may not be used for personal gain or private advantage (RCW 42.52.900). The law prohibits state employees from having a financial interest or engaging in business activities that are in conflict with the proper discharge of their official duties (RCW 42.52.020). In addition to this general prohibition, the law prohibits a number of specific activities where one might receive improper private benefit as a result of state employment. The following only summarizes some basic provisions of the state ethics law.

### **1. Use of Public Property or Equipment for Private Purposes**

State employees may not use state property, equipment, or other resources for their private benefit, except as authorized by rules adopted by the Executive Ethics Board (RCW 42.52.160). The state Executive Ethics Board and the University adopt rules from time to time which describe permitted and prohibited activities involving use of state property such as telephones, computers, e-mail, and consumables such as paper and envelopes.

### **2. Gifts**

A state employee may not solicit or receive a gift from any person if it could reasonably be expected to influence the performance of official duties (RCW 42.52.140). In addition, an employee may not accept a gift in excess of fifty dollars in a given year from any one person or source. Certain items are specifically excluded from the fifty dollars limit such as unsolicited floral arrangements or food and beverages consumed at hosted receptions where attendance is related to the employee's official duties.

### **3. Honoraria**

State employees are prohibited from receiving honoraria unless specifically authorized by the employer. The University recognizes that allowing faculty to accept appropriate honoraria in connection with involvement in the larger community in order to carry out the University's academic and community outreach mission as a land-grant institution encourages participation in such activities. Accordingly, the University policy on honoraria specifically authorizes faculty to accept honoraria if offered for their participation in community, business, trade, and professional activities related to their University duties. Receipt of honoraria is not permitted in the following circumstances:

- a) The person offering the honorarium is seeking or is reasonably expected to seek a contract or a grant from Washington State University, and the employee is in a position to participate in the terms or the award of the contract or grant;
- b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or
- c) The person offering the honorarium is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by Washington State University; and the employee may participate in the enactment or adoption.

Should any question arise regarding the propriety of any given honorarium, the potential recipient should contact his or her supervisor to obtain guidance as to whether or not the arrangement is proper. The WSU honoraria policy is included in the Washington State University *Business Policies and Procedures Manual* (<http://www.wsu.edu/~forms/manuals.htm>).

#### **4. Compensation for Outside Activities**

The general rule is that no state employee may accept anything of economic value under any contract or grant outside the employee's official duties. Therefore, under the general rule, a Washington State University employee is prohibited from contracting to do private work. However, this general prohibition does not apply and the state employee can have a beneficial interest in a personal contract or grant if all six conditions listed in the law are met:

- a) The contract is bona fide and actually performed.
- b) The contract is not within the course of the employee's official duties.
- c) The performance of the contract or grant is not prohibited by RCW 42.52.040 regarding assisting another in transactions involving the state, or by applicable law or rules governing outside employment discussed in this section.
- d) The contract is neither performed for nor compensated by any person who is regulated by Washington State University or seeks to provide goods or services to Washington State University (same as person from whom the employee would be prohibited by RCW 42.52.150[4] from receiving a gift).
- e) The contract is not expressly created or authorized by the employee in his or her official capacity.
- f) The contract would not require unauthorized disclosure of confidential information.

If the contract is with a state agency then additional requirements apply. Therefore, if a Washington State University employee privately contracts with Washington State University or the state Department of Ecology, for example, then one of the following conditions must be met:

- a) There is an open and competitive bidding or selection process in which more than one bid or grant application is received,
- b) There is an open and competitive bidding or selection process in which the employee's bid or proposal is the only one received and the employee has been advised by the state Executive Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties,
- c) There is no open and competitive process but the employee has been advised by the state Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties

The contracts or grants described in a), b), or c) must be filed with the Executive Ethics Board within thirty days of execution.

A Washington State University employee is not prohibited from performing duties under an employment contract with a governmental entity.

See additional requirements in Section IV. D, Policy on Compensated Outside Service by Faculty Members—Consulting, and E, Extended Professional Activities.

## **5. Financial Interest in Contracts or Transactions**

A state employee may not be beneficially interested in a contract that is made by, through, or is under the supervision of the employee, in whole or in part, or accept compensation or reward from any other person beneficially interested in the contract. A beneficial interest is the right to enjoy profit, benefit, or advantage from a contract or other property. For example, a beneficial interest includes the community property interest one spouse has in the other's earnings (RCW 42.52.030).

## **6. Disclosure and Use of Confidential Information**

State employees may not disclose confidential information by reason of their official position or otherwise use such information for their personal gain or benefit, nor may they disclose confidential information to any person not entitled or authorized to receive it (RCW 42.52.050).

## **7. Failure to Release Public Records**

It is a violation of the ethics law for state employees to intentionally conceal a record if they know the record is required to be released under the public disclosure law, (RCW 42.17). This prohibition applies if the employee is under a personal obligation to release the record and the decision to withhold is not made in good faith (RCW 42.52.050)[4].

## **8. Information Resources Regarding State Ethics Law**

Information resources regarding state Ethics Law are available in the various administrative offices and in Holland Library. They include:

- RCW (Revised Code of Washington) Ethics in Public Service chapter 42.52

- Rules of the state Executive Ethics Board

- Advisory opinions of the state Executive Ethics Board

- WSU *Business Policies and Procedures Manual* on line at the following address:

- <http://www.wsu.edu/~forms/manuals.html>

## **E. FACULTY RESPONSIBILITIES RELATED TO STUDENT ACADEMIC INTEGRITY**

All members of the University community share responsibility for maintaining and promoting the principles of academic integrity. To guide execution of this responsibility, the university has set a policy defining academic dishonesty and the process to be followed when it is alleged, for undergraduate and graduate students alike. The cognizant instructor, Chair, or Dean may seek the advice of the University Ombudsman or the Office of Student Affairs at any stage of the process described below.

Academic integrity violations include cheating, falsification, fabrication, multiple submission, plagiarism, abuse of academic materials, and complicity in or misconduct in research. Definitions are found in the *Student Handbook* and in WAC 504-25-310. When there is an allegation or evidence of an academic integrity violation, the cognizant faculty member must conduct a prompt and careful investigation. Physical evidence should be retained and interviews with persons who may have knowledge of the events conducted. Students are required by the Code of Student Conduct to cooperate with such investigations and are prohibited from assisting in academic dishonesty (WAC 504-25-015, 504-25-120, 504-25-135). The accused must be afforded the opportunity to present evidence, preferably in writing, and the responsible faculty member may require other students to answer questions material to the investigation. The responsible instructor then determines, by the preponderance of the evidence, whether or not a violation has occurred. The instructor then assigns an appropriate academic consequence and notifies the student. The instructor must notify the Office of Student Affairs by memo of any finding that a violation has occurred, including the nature of the violation, student's name and ID number, and the action taken. If there is an appeal to the department Chair, the Dean or Provost and Academic Vice President, the burden shifts to the student to prove by a preponderance of the evidence that the offense did not occur or that the academic sanctions were too severe. If the appeal is successful, a report must be filed with the Office of Student Affairs.

If the violation is a first offense, the Office of Student Affairs will take no further action unless requested to do so by the instructor, Chair or Dean. In that case, the student judicial process described in the *Student Handbook* <http://www.studentaffairs.wsu.edu/studets/> is followed. Knowingly false statements by the accused or by any witness constitute additional violations of the Conduct Code.

## **F. DISCIPLINARY PROCESS/PROCEDURES**

### **1. Purpose**

Adherence to the Faculty Code of Professional Ethics and to the Conduct Regulations set forth below is the responsibility of the individual faculty member. The principles implicit in these procedures are for the benefit of all who are involved with or are affected by the rules and regulations of Washington State University.

1) The purpose of this document is to enumerate the violations of law or policy for which faculty may be subject to discipline, and to provide a process for addressing those violations that ensures the accused faculty member's rights are adequately protected.

2) The procedures contained herein were drafted to adhere to the requirements of Washington's Administrative Procedure Act, RCW 34.05, as well to ensure that an employee's constitutional due process rights are protected. To the extent possible, the procedures for serious disciplinary action adhere to the process recommended by the AAUP for dismissal proceedings. Thus, a faculty member will not be subjected to serious discipline, absent his or her agreement, unless s/he has been provided:

- written notice of the charges against him/her;
- the opportunity to be heard by a committee of his peers and, should a discipline be imposed, the right to appeal the decision to the Board of Regents;
- the right to be accompanied to all hearings by an advisor of his/her choice;
- a recording of the hearing.

3) The procedures set forth herein contain other checks and balances to protect the rights of the accused and the accuracy of the process. For example, no disciplinary action may be imposed absent the review of the Provost's office and, for serious, disciplinary action, absent the review of a committee of the faculty member's peers. Additionally, all disciplinary action imposed by the University is subject to court review according to the provisions of the Administrative Procedure Act, RCW 34.05.

4) These procedures enumerate timelines that shall be followed at each stage of the process to ensure that complaints are resolved in as timely a manner as possible. Timely resolution of complaints protects the rights of all participants to the process.

5) It is the overall goal of the University is to resolve concerns or problems at the lowest possible level. To this end, prior to initiating a formal complaint with the Provost individuals feeling aggrieved by a faculty member's actions are encouraged to use the following resources for attempted resolution of disputes:

- a. Supervisory chain of authority (e.g., the faculty member's Dept. Chair, Dean)
- b. Employee Complaint Procedure (Information about the program is available at: <http://www.wsu.edu/HRS/administration/ecc/ComplaintProcedures.htm> )
- c. Center for Human Rights (For complaints involving discrimination or harassment based on age, creed, national origin, gender, disability, sexual orientation, etc.)
- d. Human Resource Services
- e. University Ombudsman
- f. Faculty Status Committee

If an individual files a complaint with the Provost without utilizing these procedures, s/he shall include a statement of reasons explaining why the complaint is being filed directly with the Provost.

This document does not address student academic complaints, which are handled using the WSU academic grievance procedure.

## **2. Confidentiality**

It is the intent of the University that faculty discipline issues shall be kept confidential to the fullest extent provided by law. *See*, RCW 42.17.310. Under state law, findings of specific acts of misconduct are public records that are subject to public disclosure. *See* RCW 42.17.310. Additionally, records created as part of the formal hearing process, including the charging document, are public documents that are subject to disclosure. *See* RCW 42.17.250, *et seq.* Similarly, the administrative procedure act requires the hearings conducted to impose formal discipline generally to be open to the public but not necessarily open to the public. RCW 34.05.

## **3. Faculty Conduct Subject to University Discipline**

Conduct for which faculty members are subject to University discipline falls into the following categories:

1. Violation of the policy on Freedom of Expression

2. Incompetence or serious or repeated neglect of duty. Unless the act is serious or puts individuals and/or property at risk, employees will not be disciplined for inadequate work performance or neglect of duty unless they have been given written notice of the areas in which the work is considered deficient, and an opportunity to improve their performance.
3. Misconduct in research and scholarship, defined as fabrication or falsification of data, plagiarism, or other serious deviations from accepted practice in proposing, implementing, or reporting on research. Procedures for investigating allegations of misconduct in research are set forth in subsection H of this Section.
4. Failure to comply with federal, state, or University requirements for protecting researchers, human subjects, and the public during research and for insuring the welfare of laboratory animals.
5. Use of research funds, facilities, or staff for unauthorized and/or illegal activities.” Procedures for investigating allegations of misconduct in research are set forth in subsection H of this Section.
6. Discrimination against any person based on race, ethnicity, religion, age, color, creed, gender, national origin, physical, mental or sensory disability, use of a guide dog or service animal, marital status, sexual orientation, or status as a Vietnam-era or disabled veteran which deprives that person of civil rights, employment opportunities, or housing, or which, in any way, impedes, hinders, delays, or restricts the individual's membership or subsequent full participation in any activities of the recognized organizations of the University.
7. Violation of the University policy against discrimination and sexual harassment. Procedures for investigating allegations of discrimination and sexual harassment are set forth in the University document, “Policy Prohibiting Discrimination and Sexual Harassment” and “Policy on Faculty-Student and Supervisor-Student Relationships” available here and at [www.chr.wsu.edu](http://www.chr.wsu.edu). The policies are also listed below.
8. Retaliation against any individual for engaging in protected activity, including but not limited to, filing a good faith complaint of discrimination, harassment or misconduct against another. Retaliation is defined as taking adverse employment action against another.
9. Forgery, alteration, or misuse of University documents or identification.
10. Falsification of information submitted to any University official or agency, or the offering of an intentionally false statement in any University disciplinary proceeding.
11. Theft of or intentionally damaging or defacing University property or property belonging to any member of the University community or campus visitor.
12. Illegal use, possession, or purveying of narcotic or dangerous drugs on University property. University policy is consistent with state and federal laws which regulate the possession, use, sale, and distribution of drugs.
13. Illegal possession, use, or sale of intoxicating beverages on University property.  
\*Washington State University's policies and programs for drug and alcohol abuse and a drug-free workplace are available at Central Stores, no.51197
14. Possession by a faculty member, on his or her person or otherwise, of a firearm, explosive, or other dangerous weapon within any office, laboratory or classroom building, lecture hall, residence hall, or sports arena on University property, and any immediately contiguous grounds, walkways and malls, except as follows:
  - a) Those faculty members who also are authorized law enforcement officers shall be permitted to carry arms while on duty and engaged in regular activities of law enforcement.

- b) Faculty members with firearms in their possession shall be permitted to travel en route to or from the University-provided storage facilities. Such facilities shall be available twenty-four hours per day for short- or long-term firearm storage.
  - c) Activities requiring use of the prohibited items by faculty members may be conducted upon approval by the Board of Regents or their designee.
  - d) Nothing in this article is intended to restrict the lawful possession by faculty members of firearms in privately owned vehicles on the University campus, within University-owned housing other than residence halls, or on other University property not specifically indicated above.
15. Unlawful acts that directly affect University programs, community members, or property insofar as they materially and substantially interfere with the missions, functions, processes, and goals of the University community.
16. Illegal entry, attempted entry, or entry in violation of Washington State University rules of University-controlled property, or University-related property, such as fraternities, sororities, or co-op houses.
17. Intentional disruption of the educational processes and functions of the University, including classroom and laboratory activities, offices, services, meetings, or ceremonies.
18. Intentional and unauthorized obstruction or restriction of free movement of persons or vehicles on the campus or other University property. Peaceful picketing is permitted, but such activity must be confined to the outside of University buildings and must not interfere with or restrict the free flow of traffic to and from any University building. Picketing of the Wilson Compton Union must be confined to the lobbies or to the outside of the building.
19. Detention or physical abuse of any person or conduct which threatens imminent bodily harm or endangers the health or safety of any person on any property owned or controlled by the University, or in connection with approved University functions.
20. Willful violation of published University policy.

Faculty members should be aware of conduct regulations for campus guests and visitors as follows: Guests and visitors will observe the rules and regulations of the University while on the campus or other University property. Those who willfully refuse to obey an order of a uniformed campus security officer or other law enforcement officer to desist from conduct prohibited by the University rules and regulations may be ejected from the premises. Refusal to obey such an order will subject the person to arrest under the provisions of the criminal trespass statutes, in addition to such other sanctions as may be applicable.

#### **4. Types of Discipline**

The sanctions that may be imposed include warning, censure, suspension, termination, and in emergency situations, summary suspension.

##### **a. Informal Discipline**

###### **i) Warning**

Written notice to the faculty member from the Provost that he or she has violated the Code or other regulation or policy, and that continued or additional such conduct may lead to more severe sanctions in the future.

###### **ii) Censure**

Written reprimand from the Provost regarding such violation(s).

**b. Formal Discipline**

i) Suspension

Suspension is defined as any one of or combination of the following measures: temporary release from or reduction in assigned responsibilities, reduction or suspension of pay, denial or postponement of an opportunity for a professional promotion within the University, professional leave from the University. A summary suspension is also possible, as set forth in G.10 of this Section.

ii) Termination

Dismissal of the faculty member from the University, whether a tenure, tenure-track or adjunct faculty member. The usual notice procedures for such termination shall not apply in this case, and may be set by the sanctioning authority.

**c. Summary Suspension**

In circumstances where an emergency exists or where there is an immediate threat to the public health, safety, or welfare, to University property, or to the safety or welfare of any member of the University community (including the subject faculty member), the faculty member may be suspended immediately, without pay See Section 8 below for further information regarding the procedures for imposing a summary suspension.

Written notice from a dean, chair or other supervisor indicating that a faculty member has violated a provision of this *Manual* and directing him/her not to do so again, or reprimanding him for such violation, are not discipline that is subject to appeal under this policy.

**5. Initiation of Complaint**

Any individual who has a formal complaint regarding violations of the Faculty Code of Professional Ethics and the Conduct Regulations should address his/her complaint, in writing, to the Provost and Academic Vice President. If the complainant has not utilized another complaint resolution procedure, s/he shall provide the Provost and Academic Vice President with a statement of reasons for filing his/her complaint directly with the Provost and Academic Vice President. If the Provost and Academic Vice President determines that the matter should be addressed at a lower level before his involvement, he shall inform the individual in writing within five working days of the complaint resolution options available (e.g., The Ombudsman, the Faculty Status Committee, the Center for Human Rights, etc.), as delineated in Section II., F., 1, 5. The individual may initiate a formal complaint with the Provost and Academic Vice President after utilizing an alternative level complaint resolution process.

Unless the Provost has determined that a complaint should be remanded to another complaint resolution process, he shall, within ten (10) days of receiving the complaint, the Provost and Academic Vice President determine whether the allegations, if proved, state cause to discipline a faculty member. If the Provost and Academic Vice President determines that the charges do not state grounds for discipline, s/he shall communicate that decision to the complainant.

If the Provost and Academic Vice President determines that the charges, if proven, state grounds for disciplinary action, s/he shall promptly notify the accused faculty member of the general nature of the allegations, the requirement for cooperation during an investigation, the right to present information on his or her behalf, and the obligation not to retaliate against those filing the complaint.

## **6. Investigation of Complaint or of Provost Concerns**

If the Provost and Academic Vice President determines that the allegations, if proved, state grounds for discipline, s/he shall, within ten working days of such determination, initiate an investigation into the matter. The Provost and Academic Vice President shall determine the appropriate investigative person/body, including, but not limited to:

- a. Himself/Herself
- b. Vice Provost or Associate Vice Provost
- c. Dean or Department Chair
- d. Center for Human Rights
- e. Human Resource Services
- f. A faculty committee appointed by Faculty Status Committee within ten (10) working days of receipt of the request from the Provost and Executive Vice President and selected from among the members of the Faculty Hearing Committee Panel.

The Provost and Academic Vice President shall generally cause the investigation to be completed within 30 days of the date initiated. If it appears that the alleged violation will require that multiple witnesses be interviewed or will require an investigation that is otherwise substantial or complex, the Provost and Academic Vice President shall cause the investigation to be completed within 120 days of the date received. The Provost and Academic Vice President shall notify the complainant and the accused faculty member if the investigation is expected to take longer than thirty days.

The timelines may be extended by the Provost and Academic Vice President at any time upon his/her determination that exigent circumstances exist, e.g. unavailability of witnesses or faculty, complexity of issues. Any extension of the timelines must be communicated in writing to the accused faculty member and the complainant. The Provost may also of his/her own initiative, after learning of concerns regarding faculty conduct, initiate an investigation and pursue disciplinary action consistent with the other requirements of this policy..

Any case reported to the dean that requires punishment or a class needs to be reported to the Provost and Academic Vice President. The Provost's office shall maintain a confidential file of all cases reported to a dean whose final determination involved punishment or mandatory attendance at a class. The purpose of this file is to insure there is an adequate record of past infractions.

## **7. No Discipline**

If after investigation the Provost and Academic Vice President determines that the alleged conduct either did not occur or did not constitute a violation of the Faculty Code of Professional Ethics of the Conduct Code, the Provost and Academic Vice President shall notify the affected faculty member and the complainant in writing. Said notification shall be made within 10 days of the completion of the investigation. The determination of no violation by the Provost and Academic Vice President is final.

## **8. Summary Suspension**

Summary Suspension is the responsibility of the President. Ordinarily, the disciplinary authority of the University will be invoked only after completion of the procedures established for the review of discipline cases and after the individual has utilized any appeal procedures desired as described in the following sections of the disciplinary regulations.

However, if at any time the Provost and Academic Vice President becomes aware of information that causes him/her to believe there is an immediate threat to the public health, safety, or welfare, to University property, or to the safety or welfare of any member of the University community (including the subject faculty member), the Provost and Academic Vice President shall immediately institute summary suspension procedures. These procedures require the Provost to provide the faculty member, either orally or in writing, with notice of charges against him, with an oral or written statement of the evidence that supports the charges, and with an opportunity to respond to the charges. If, after receiving the faculty member's response, the Provost and Academic Vice President believes that the immediate threat remains, s/he shall recommend to the President that the faculty member be summarily suspended. The President shall consider this recommendation, including the summary of the basis therefore and the faculty member's response to the charges and determine whether to summarily suspend the faculty member. If the faculty member is summarily suspended, salary shall not continue for the duration of the summary suspension. In all such emergency cases, the faculty member is thereafter entitled to all of the formal hearing process rights as provided in this section on formal discipline.

A decision to summarily suspend a faculty member shall comply with the requirements of RCW 34.05.479. The order of summary suspension shall be served on the faculty member in person. The notice should indicate that the suspension is for an emergency purpose in accordance with this section. It shall contain a brief statement of reasons to justify the summary suspension. If personal service is not feasible the notice shall be sent by certified mail. If there is to be a restriction on the faculty member's privilege to be present on University property, the faculty member shall be notified of that constraint, and such notice will be simultaneous with the notice of summary suspension.

The Provost and Academic Vice President shall issue a statement of charges within five days of the imposition of a summary suspension, and shall request that the Faculty Status Committee expedite the selection of a hearing committee. The Hearing Committee shall schedule the hearing within the next thirty days. This right to an expedited hearing may be waived by the accused faculty member.

## **9. Minor Infractions**

If after investigation the Provost and Academic Vice President determines:

- a. The alleged conduct occurred,
- b. The conduct violated the Faculty Code of Professional Ethics or the Conduct Code, and
- c. The conduct subjects the faculty member to a warning or censure,

the Provost and Academic Vice President shall notify the affected faculty member in writing. This notice will be kept confidential to the extent allowed by law. The affected faculty member shall be provided the option of accepting or rejecting the informal discipline and must do so within ten (10) days of receipt of the notice. If the affected faculty member accepts the imposed discipline, the Provost and Academic Vice President shall carry out the discipline accordingly, and notify the complainant and the cognizant administrators, including the affected faculty member's department chair and dean. If the affected faculty member rejects the imposed discipline, all information shall be turned over to the President for a final decision on the matter. The President may request additional briefing or oral argument from the Provost and the accused. prior to issuing his/her decision.

## **10. Major Infractions**

If after investigation the Provost and Academic Vice President the preponderance of evidence indicates:

- a. The alleged conduct occurred,
- b. The conduct violated the Faculty Code of Professional Ethics or the Conduct Code, and
- c. The conduct subjects the faculty member to a suspension or termination,

the Provost and Academic Vice President shall notify the affected faculty member in writing. This notice shall remain confidential to the extent allowed by law. The affected faculty member shall be provided the option of accepting or rejecting the imposed discipline and must do so within ten (10) days of receipt of the notice. If the affected faculty member accepts the discipline, the Provost and Academic Vice President shall carry out the discipline accordingly, and notify the complainant and the cognizant administrators, including the affected faculty member's department chair and dean. If the affected faculty member rejects the discipline, the Provost and Academic Vice President shall cause formal disciplinary proceedings to be commenced.

The formal disciplinary process includes:

### **a. Formal Hearing Procedure**

Formal hearings are adjudicative procedures under RCW 34.05. The University has developed its procedures to comport with the requirements of the Administrative Procedures Act, to ensure that parties are afforded appropriate due process rights, and to provide protection to the rights of all parties to the dispute while maintaining the collegiality that is the hallmark of the academic community.

#### **1. Statement of Charges**

The first step in the formal disciplinary process is the issuance of a Statement of Charges that shall include:

- a) A reference to those portions of the Faculty Code of Professional Ethics, Conduct Regulations, or other particular rules or policies the faculty member is alleged to have violated;

- b) A short and plain statement of the factual matters asserted upon which the violations are based.
- c) A statement of the contemplated disciplinary action.

## **2. Response to Statement of Charges**

The Respondent must provide a Response to the Statement of Charges within twenty (20) days of service thereof. The Response to Statement of Charges shall include:

- a. Admissions or denials regarding the factual allegations related to violations of the Faculty Code of Professional Ethics, Conduct Code, or other particular rules or policies listed in the Statement of Charges;
- b. Any affirmative defenses available to the faculty member.

The Respondent may elect to be represented by counsel in these proceedings. If counsel is elected, the Provost and Academic Vice President shall be notified immediately so that all further correspondence can be directed to counsel.

If Respondent fails to respond to the Statement of Charges within the specific period, the Respondent is deemed to be in default. The Provost and Academic Vice President can then proceed to impose the discipline recommended in the Statement of Charges.

## **3. Hearing Panel**

The President shall annually appoint twenty-one tenured faculty on staggered three year terms, nominated by the Faculty Status Committee, as members of the Faculty Hearing Committee Panel ("Panel"). The Faculty Status Committee shall keep in mind the University's values regarding affirmative action and diversity in recommending Panel members.

Within five (5) days of the receipt of the Response to Statement of Charges, the Provost and Academic Vice President shall request that the Faculty Status Committee appoint a hearing committee from the members of the Faculty Hearing Committee Panel. The Hearing Committee shall consist of five tenured faculty members. Two alternate members shall also be named. All committee members, including the alternates, shall attend the hearings. The Faculty Status Committee shall select committee members within (10) days of the receipt of the request. Once the Faculty Status Committee has constituted the Hearing Committee, the Provost and Academic Vice President and the Respondent shall each be provided the opportunity to disqualify up to two members without stated cause. The Provost and Academic Vice President and the Respondent shall also each be allowed such further challenges to the Committee's membership, based on articulable cause, at the discretion of the Faculty Status Committee. The Faculty Status Committee may, at its discretion, schedule a hearing for the purpose of considering challenges to the potential committee members and finalizing the selection of a panel. If it does not schedule a hearing, all challenges and responses thereto will be provided in writing utilizing the following timelines: Any request to strike a committee member, whether for cause or no cause, shall be provided to the Faculty Status Committee within five (5) days of the receipt of the committee member's names. The

Faculty Status Committee shall rule on all cause challenges within ten (10) days of the receipt thereof. Once all challenges are resolved, the Faculty Status Committee shall confirm the members of the committee in a writing sent to the Provost and Academic Vice President and the Respondent, or their respective attorneys.

No Committee member shall have been involved in the investigation of any matter involved in the Statement of Charges, or the decision to convene a formal hearing with regard to those charges. No Committee member shall make or receive any *ex parte* contact regarding the subject matter of the formal proceeding from any party thereto, directly or indirectly, outside the scope of the formal hearing, nor shall any party to the hearing make or attempt to make any such contact. RCW 34.05.455. Communications regarding purely procedural or housekeeping matters related to the proceeding shall not be prohibited by the foregoing. Any attempt at improper contact with any Committee member outside the hearing shall be immediately reported to both the remainder of the Committee and to the other parties.

The Hearing Committee at that first meeting shall elect a Chair to preside over its hearings, and shall promulgate any specific procedural rules it may deem necessary or proper for the orderly conduct of the hearing. Those rules shall be consistent with this section of the *Manual* and with applicable Washington State law.

#### **4. Notice of Hearing**

The Hearing Committee shall determine a date(s) for its hearing on the matter. If a summary suspension has been ordered, the hearing must be scheduled to begin no later than thirty (30) days from the date the Faculty Status Committee constituted the Hearing Committee, unless the Respondent waives his/her right to have the hearing begin within this time-frame. In all other cases, the hearing must be scheduled to begin no sooner than thirty (30) and no later than ninety (90) days from the date that the Faculty Status Committee constituted the Hearing Committee. The Hearing Committee shall attempt to accommodate the convenience of the parties with respect to the hearing date(s). The Hearing Committee shall notify the parties in writing of the hearing date(s) at least ten (10) days in advance thereof. The Hearing Committee may continue the hearing date(s) at the request of either party, or at the Committee's own initiative, where justice so requires. However, the Hearing Committee will do so in writing and must determine that just cause exists for doing so. Justice requires swift resolution of the case.

The Notice of Hearing shall include:

- (1) The names and addresses of all persons to whom the Notice is sent, and of their respective representatives or attorneys (if any)
- (2) The name of the matter in which the proceeding is being held (usually the name of the faculty member)
- (3) The names, titles, and campus mailing addresses of the Committee members, including a designation of the Committee Chair
- (4) A statement of the time, place, and nature of the proceeding
- (5) A statement that the hearing is being held pursuant to the Administrative Procedures Act of the State of Washington, under jurisdiction and powers granted to the University under RCW chapter 28B, and pursuant to this *Manual*

- (6) A short and plain statement of the matters asserted by the agency; and
- (7) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with this the provisions of RCW 34.05.

A copy of the Charging Document shall be attached to the notice of hearing.

## **5. Discovery**

The parties shall be allowed to exchange documents and interview witnesses prior to the hearing. The Provost and Academic Vice President shall turn over to the Respondent all investigative materials upon which the decision to issue the Statement of Charges was based. The University will also use its best efforts to secure the cooperation of witnesses and make available such documents as are under its possession and control. All parties shall diligently share information, documents, and other relevant facts to ensure against unfair surprise at the hearing.

Formal discovery is time-consuming and costly, and therefore is discouraged. The Hearing Committee shall allow formal discovery only upon a showing of necessity and unavailability of information by other means. The Hearing Committee shall review the factors outlined in RCW 34.05.446(3) when determining whether to exercise its discretion to allow discovery. Formal discovery includes requests for answers to interrogatories, requests for production, the taking of depositions and all other procedures authorized by the Superior Court Civil Rules 26 through 36.

The Hearing Committee may issue subpoenas as authorized under RCW 34.05.446, and shall make such reasonable orders as may be proper to allow the all parties a full and fair opportunity to be heard.

## **6. Pre-hearing Statements**

In order to facilitate an expedient hearing, at least ten (10) days prior to the date of the hearing both parties shall provide to the hearing committee a Pre-hearing statement including:

- a. A list of all individuals the party intends to call to present their case in chief;
- b. A list of all documents the party intends to present as evidence in their case in chief;
- c. An estimated time for the presentation of their case.

The parties need not identify witnesses or documents intended to be used only for impeachment purposes.

The parties shall also be entitled to file with the Hearing Committee such memoranda, position statements, objections to proffered evidence, and other procedural materials as the Hearing Committee may in its discretion allow. The Hearing Committee's charge on this matter is to ensure that all parties have a full and fair opportunity to be heard while simultaneously upholding the parties' mutual interest in an expeditious proceeding.

**7. Motions**

The Hearing Committee shall, at appropriate stages of the proceedings, allow all parties the full opportunity to submit and respond to pleadings, motions, objections and offers of settlement. RCW 34.05.437.

**8. Formal Hearing**

The Hearing Committee shall cause the hearing to be recorded by the most effective method, and shall preserve any exhibits or other materials received during the hearing. The Hearing Committee shall conduct its proceedings with as much dispatch as possible, while recognizing the parties' right to adequate time to present their case.

The University conducts faculty disciplinary hearings pursuant to the Washington Administrative Procedure Act, RXW 34.05. That law requires all hearings to be open unless closed 1) under a provision of law expressly authorizing closure or 2) under a protective order entered by the Hearing Committee pursuant to applicable rules. The Hearing Committee and the parties shall refrain from public comments or statements regarding the hearing, its conduct, the evidence presented before it, and any findings, recommendations and sanctions until final action has been taken on the matter.

The Hearing Committee shall first allow the Provost and Academic Vice President to submit those witnesses and documents identified in the Pre-hearing Statement. The Hearing Committee shall then allow the Respondent to submit those witnesses and documents identified in the Pre-hearing Statement. Both parties will be afforded the opportunity for rebuttal. All parties shall have the right to confront and cross-examine all witnesses.

The faculty member shall have the right to have a professional colleague present at all stages of the hearing as an academic advisor. In addition, the faculty member is entitled to have counsel present, as is the University. At any party's request or at the initiation of the Hearing Committee, a representative of the responsible educational association shall be permitted to attend even those portions of the hearing that have been closed to the public. The Hearing Committee retains the right to determine if any other person may attend or be excluded, including witnesses.

The Hearing Committee shall have the power, in its discretion, to adjourn the proceeding to enable any party to investigate evidence concerning which a valid claim of surprise is made, or at any point where it feels such adjournment will assist in its deliberations.

**9. Findings, Recommendations & Sanctions**

In all formal proceedings, the University bears the burden of proving that the faculty member violated the Faculty Code of Professional Ethics, Conduct Regulations, or some other regulation or policy of the University. This burden must be satisfied by a preponderance of evidence.

The Hearing Committee shall make its Finding, Recommendations and Sanctions, within thirty (30) days of the last day of the hearing. It shall submit a complete record of the hearing, including any recording or transcription of the hearing and the Committee's Finding, Recommendations and Sanctions, to the President or, in those cases where the President considered a summary suspension and is therefore not eligible to act as a fact-finder, to the Board of Regents. All findings and recommendations of the Committee shall be based solely on the hearing record. The Committee shall in all cases issue an order that includes findings and recommendations, together with a statement of the reasons and bases for them. Findings based primarily on witness credibility or demeanor shall be specifically identified. Sanctions may be recommended only based upon a finding of a violation as set forth above. Sanctions shall not be used to restrain faculty members in their exercise of academic freedom or other rights. Academic freedom, however, does not include the right to remain a faculty member while persistently failing or refusing to perform the duties and functions of a faculty member, or the right to violate University policies and rules including those governing freedom of expression.

The Hearing Committee's findings, conclusions and recommendations are preliminary recommendations in which opinions are expressed and thus and shall not be disclosed to the public until action is taken on the matter.

#### **10. Action by the President**

The President shall not hear any appeal in which he has reviewed a request for summary suspension. In such cases, the record of the hearing, including the Committee's findings, conclusions and recommendations, shall be forwarded directly to the Board of Regents, and handled as stated in section 11 below. In all other cases, authority to take action and impose sanctions if appropriate lies with the President. Upon receipt of the full and complete record of the proceedings, including the Committee's findings, conclusions, and recommendations, the President shall make a determination within twenty (20) days.

If the President's determination is to uphold the findings, conclusions and recommendations of the Hearing Committee, the Committee and faculty member shall be so notified. If the President objects to or disagrees with any portion of the Committee's findings, conclusions and recommendation, he or she shall indicate those objections or disagreements in writing and provide them to the Committee, the Provost and Academic Vice President and to the faculty member. The Provost, Committee and the faculty member shall have ten days to respond in writing to the President's objections and disagreements. Thereafter, the President will issue a determination within ten (10) days. The determination will include findings of fact, conclusions of law, and specification of any sanctions to be imposed. The Decision shall also contain an explanation of the basis for the conclusions and sanctions, if any. The President's directive shall become final twenty-days after delivery to the faculty member, unless the faculty member files an appeal to the Board of Regents by that date.

The President shall not make or receive any *ex parte* contact regarding the subject matter of the formal proceeding from any party thereto, directly or indirectly, outside the scope of the formal hearing, nor shall any party to the hearing make or attempt to make any such contact. RCW 34.05.455. Communications regarding purely procedural or housekeeping matters related to the proceeding shall not be prohibited by the foregoing. Any attempt at improper contact with the President outside the hearing shall be immediately reported to all parties.

All reports and recommendations previously withheld from public disclosure as preliminary recommendations are subject to public disclosure, as is the President's determination itself, once the President's determination is issued.

## **12. Action by Board of Regents Regarding Summary Suspensions**

The President shall not hear any appeal in which he has issued a summary suspension. In such cases, the Committee's findings, conclusions and recommendations shall be forwarded directly to the Board of Regents. The Board of Regents shall convene a meeting as soon as is reasonably practicable after receipt of the hearing record, including the Hearing Committee's findings, conclusions and recommendations given the Board's schedule. It shall make a determination within twenty (20) days of its meeting. If the final determination is to uphold the findings, conclusions and recommendations of the Hearing Committee, the Committee and faculty member shall be so notified. If the Board objects to or disagrees with any portion of the Committee's findings, conclusions and recommendation, it shall indicate those objections or disagreements in writing and provide them to the Committee, the Provost and to the faculty member. The Provost and Academic Vice President, Committee and the faculty member shall have ten (10) days to respond in writing to the Committee's objections and disagreements. Thereafter, the Board will convene another meeting as soon as is reasonable after receipt of the responses, and will issue a final determination.

The Board's final determination will include findings of fact, conclusions of law, and specification of any sanctions to be imposed. The decision shall also contain an explanation of the basis for the conclusions and sanctions, if any.

The decision of the Board of Regents is the final decision of the University.

## **13. Appeal to Board of Regents**

If the President decides to impose any sanction upon the faculty member, that faculty member shall have the right to appeal that sanction to the Board of Regents. Such an appeal must be served upon the secretary to the Board within twenty (20) days after the faculty member's receipt of the decision. No Regent member shall make or receive any *ex parte* contact regarding the subject matter of the formal proceeding from any party thereto, directly or indirectly, outside the scope of the formal hearing, nor shall any party to the hearing make or attempt to make any such contact. RCW 34.05.455. Communications regarding purely procedural or housekeeping matters related to the proceeding shall not be prohibited by the foregoing. Any attempt at improper contact with any member of the Board of Regents outside the hearing shall be immediately reported to the other Regents, to the University President, and to the parties.

The Board of Regents' review shall be based on the record of the hearing, including the Hearing Committee's findings, conclusions, and recommendations to the President, and the President's decision. The Board shall afford the faculty member and the University the opportunity to present written and/or oral argument. The Board will either sustain the decision or return it to the President with specific written objections. This decision shall be reached as soon as practicably possible by the Board of Regents within the normal constraints that arise from the infrequency of their meetings.

Sustaining of the decision by the Board of Regents shall conclude the formal proceeding. If the decision instead is returned, the President may either reconsider the decision or refer the matter back to the Hearing Committee for such further proceedings as it may deem proper. Whichever method is used, a revised final report shall thereafter be prepared for the Board addressing its concerns and recommending action by the Board. The Board shall thereafter issue the University's final decision in the matter within sixty days of receipt of that revised report.

#### **14. Alternate Dispute Resolution**

The parties are encouraged to seek informal resolution of the dispute described in the Statement of Charges. Nothing in these procedures shall preclude the parties and/or the University from reaching an informal resolution of the dispute via any mutually agreed-on method, including stipulation, agreed settlement, consent order, or through the default of a party. However, the informal resolution process cannot be used to circumvent the timelines necessary to carry out the formal hearing process. Time is of the essence for all parties. All parties have an interest in prompt resolution of these issues.

All testimony, statements, or other evidence obtained in the informal resolution process, whether obtained from a party to the dispute or a third party, shall be regarded as made in the course of settlement discussions, and shall accordingly be confidential and not disclosable in subsequent discovery in the course of a formal hearing, without the express permission of the person provided such testimony or evidence or as allowed by law. Further, such material may not be employed in proceedings for collateral or impeachment purposes without such permission or as otherwise allowed by law. However, such information may be subject to disclosure under the Washington Public Records Act and discovery in the course of a formal legal action.

### **POLICY PROHIBITING DISCRIMINATION AND SEXUAL HARASSMENT**

#### **Purpose**

The strategic plan of Washington State University calls for "an environment of trust and respect in all that we do". Discrimination and harassment destroy mutual respect and a trusting environment. This policy expresses WSU's commitment to maintaining an environment free from discrimination, including sexual harassment. This policy applies to all students, faculty, staff, or others having an association with the University.

WSU is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the University, and this policy is not intended to stifle teaching methods or freedom of expression. Discrimination and sexual harassment are neither legally protected expression nor the proper exercise of academic freedom. Sexual harassment and other forms of discrimination compromise the integrity of the University, its tradition of intellectual freedom, and the trust placed in its members.

### **Discrimination Prohibited**

This policy prohibits discrimination on the basis of race, sex, sexual orientation, gender identity/expression, religion, age, color, creed, national or ethnic origin, physical, mental or sensory disability, marital status, and/or status as a veteran. Discriminatory harassment is one form of discrimination. Under this policy, discriminatory harassment is identified as conduct toward a particular individual or individuals on the basis of a protected status that is sufficiently severe or pervasive that it:

- has the purpose or effect of creating an intimidating, hostile, or offensive work or educational environment for the individual(s); or
- has the purpose or effect of unreasonably interfering with the work, academic performance, living environment, personal security, or participation in any University sponsored activity of the individual(s); or
- is abusive or severely humiliating.

Sexual harassment is a form of discrimination. Sexual harassment may include unwelcome sexual advances, unwelcome requests for sexual favors or requests for sexual favors in exchange for some benefit, and/or unwelcome verbal or physical conduct of a sexual nature by a male or a female. Sexual harassment occurs when:

- submission to such conduct is made either explicitly or implicitly a term or condition of any individual's employment or education; or
- submission to or rejection of such behavior by an individual is used as the basis for employment or educational decisions affecting the individual; or
- the behavior is sufficiently severe and pervasive to interfere with any individual's performance or education, or create an intimidating, hostile, or offensive work or educational environment.

Examples of behaviors that may rise to the level of sexual harassment and, therefore, are prohibited by this policy include but are not limited to the following:

1. physical assault;
2. direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
3. a pattern of behaviors that is unwelcome and serious or pervasive, resulting in unreasonable interference with the work or educational environment or creation of a hostile, intimidating or offensive work or educational environment, and may include but are not limited to the following:
  - comments of a sexual nature;
  - sexually explicit statements, questions, jokes, or anecdotes;

- unnecessary or undesirable touching, patting, hugging, kissing, or brushing against an individual's body;
- remarks of a sexual nature about an individual's clothing, body, or speculations about previous sexual experiences;
- persistent, unwanted attempts to change a professional relationship to an amorous relationship;
- subtle propositions for sexual activity or direct propositions of a sexual nature; and/or
- uninvited letters, emails, telephone calls or other correspondence referring to sex.

### **Reporting and Immediate Action**

Anyone who believes (s)he is a victim of discrimination or sexual harassment should take one or more of the following actions:

- meet informally with the Ombudsman or a counselor from the WSU Counseling Center to discuss the incident and seek information to ascertain his or her rights in connection with the incident; and/or
- report the incident to his/her supervisor, who must report the incident to the Center for Human Rights for statistical purposes only; and/or
- report the incident to the Center for Human Rights for formal investigation.

Supervisors (administrators, deans, chairs, directors, ombudsmen, faculty members, graduate teaching or research assistants, or undergraduate student employees with supervisory responsibility) receiving information in his or her capacity as a supervisor describing incidents of discrimination or sexual harassment defined in this policy shall:

- following discussion with the alleged victim or reporting individual, determine if the incident warrants filing a written complaint with the Center for Human Rights; or
- report the incident to the police if suspicion exists that a crime was committed; and
- report alleged incidents of discrimination or sexual harassment to the Center for Human Rights for statistical purposes only.

In addition, supervisors receiving information about incidents of discrimination or sexual harassment should either:

- take formal or informal action to immediately end the behavior; or
- report the incident to the Center for Human Rights for formal investigation; or
- inform the reporting individual of his or her right to report the incident to the Center for Human Rights for formal investigation.

Note: Reporting of the incident to the Center for Human Rights does not preclude the supervisor from taking formal or informal action to end the behavior. The supervisor must inform the alleged victim or reporting individual of his/her obligation to report the occurrence of alleged incidents of discrimination and sexual harassment to the Center for Human Rights for statistical purposes. In certain cases, the supervisor may be required to take formal or informal action to stop the behavior regardless of the reporting to the Center for Human Rights. Please consult the Office of the Attorney General, WSU Division, for advice in this regard.

The Center for Human Rights is responsible for conducting thorough and timely investigation of alleged discriminatory or sexual harassment; informing supervisors of the progress in the conduct of investigations; and reporting the results of the investigations to the supervisor, complainant and alleged perpetrator. The name of alleged perpetrators will be released only in response to an appropriate public records request. Complainants retain the right to withdraw from participation in the investigation of alleged discrimination or harassment.

**Center for Human Rights**

French Administration, Room 225  
Pullman, WA 99164-1022  
(509) 335-8288  
[www.chr.wsu.edu](http://www.chr.wsu.edu)

**University Ombudsman**

Wilson Hall, Room 2, Pullman, WA 99164-4002  
(509) 335-1195  
[www.wsu.edu/~ombuds/](http://www.wsu.edu/~ombuds/)

**Enforcement**

**The University vigorously enforces this policy.** Persons determined to have violated this policy shall be subject to sanctions imposed using the due process protections of applicable University policies and handbooks (e.g., the *WSU Faculty Manual*, the *Administrative Professional Handbook*, *Civil Service employees WAC 357-40*, applicable collective bargaining agreements, and, for students, the *WSU Standards of Conduct for Students*, WAC 504-25). The chosen sanction will be proportionate to the severity of the offense considering the totality of the circumstances of the incident (the nature, frequency, intensity, location, context, and duration of the alleged behavior). The chosen sanction will be adequately and appropriately severe to reasonably assure prevention of future offenses. The sanctions that are imposed or other actions taken, will be reported to the claimant and Center for Human Rights by the administrator imposing the sanctions.

**Faculty**

The type of corrective or disciplinary action imposed on faculty identified in violation of this discrimination and harassment policy will be determined by supervisors in consultation with the Vice Provost for Faculty Affairs. Corrective actions or disciplinary sanctions may include: mandatory training or counseling regarding discrimination including harassment; transfer or reassignment; verbal or written warning; censure; demotion; reduction in salary; withholding of salary increases; denial of professional or retraining leave; withholding of promotion; termination; or summary suspension and dismissal. Established incidents of discrimination and harassment must be explicitly incorporated into faculty annual review, third year review, progress toward tenure review, and tenure and promotion consideration as violating University policy, the Faculty Code of Ethics, and/or as interfering with the teaching, scholarship, or service function of the involved individual or unit.

**Staff**

The type of corrective or disciplinary action imposed on staff identified in violation of this policy will be determined by supervisors and/or appointing authorities, dependent upon employment class, in consultation with Human Resource Services personnel. Corrective

actions or disciplinary sanctions may include: mandatory training or counseling regarding discrimination including harassment; transfer or reassignment; verbal or written warning; reprimand; demotion; reduction in pay; withholding of pay increases; withholding of promotion; suspension; and/or termination of employment. Immediate supervisors will explicitly incorporate established incidents of severe or pervasive discrimination or sexual harassment as defined by this policy into annual performance evaluations.

### **Students**

The type of corrective or disciplinary action imposed on students will be determined by a student conduct officer or the conduct board using the procedures of the *Standards of Conduct for Students*. Disciplinary action imposed on students may include sanctions set forth in the conduct code, up to and including expulsion.

### **Retaliation Prohibited**

No one shall suffer penalty or retaliation for making or supporting a charge of discrimination or sexual harassment under this policy. Retaliation against any person for bringing forward or participating in the investigation of a complaint under this policy, including creating a hostile work environment, forms independent grounds for taking appropriate disciplinary action. Retaliatory acts shall be reported to the Center for Human Rights.

### **Malicious or Frivolous Allegations Prohibited**

The University will discipline members of the University community who knowingly make false allegations of discriminatory or sexual harassment. No complaint will be considered malicious or frivolous solely because it cannot be corroborated.

### **Resources**

Other resources may also help in the resolution of reports of discriminatory or sexual harassment behaviors.

### **INTERNAL, LOCAL, STATE AND FEDERAL RESOURCES**

#### **Employee Assistance Program**

280 Lighty Student Services  
(509) 335-1744  
[www.eap.wsu.edu](http://www.eap.wsu.edu)

#### **Human Resource Services**

French Administration, Room 139  
(509) 335-4521  
[www.hrs.wsu.edu](http://www.hrs.wsu.edu)

#### **WSU Counseling Services**

280 Lighty Student Services  
(509) 335-4511  
[www.counsel.wsu.edu](http://www.counsel.wsu.edu)

#### **Regional Human Resource Services**

Spokane: 509-358-7740  
Tri-Cities: 509-372-7302  
Vancouver: 360-546-9587

#### **Women's Resource Center**

Wilson Hall, Room 8,  
Pullman, WA 99164-4005  
(509) 335-6849  
[www.women.wsu.edu/](http://www.women.wsu.edu/)

#### **U.S. Dept. of Education, Office for Civil Rights**

Federal Office Building  
915 Second Ave Room 3310  
Seattle, WA 98174-1099  
<http://www.ed.gov/ocr>

**WSU Police**  
Public Safety Building, Pullman, WA  
99164-7300  
(509) 335-8548  
For Emergencies: Dial 911

**U.S. Equal Employment Opportunity  
Commission**  
Federal Office Building, 909 First Ave  
Suite 400  
Seattle, WA 98104-1061  
<http://www.eeoc.gov/>

## **WASHINGTON STATE HUMAN RIGHTS COMMISSION**

### **Olympia Headquarters Office**

(for complaints from Western Washington and the Olympics, including, Pierce, Thurston, Clark, Lewis, Grays Harbor, and Kitsap Counties)  
711 South Capitol Way, #402, PO Box 42490, Olympia, WA 98504-2490

### **Seattle District Office**

(for complaints from Central and North Puget Sound, including King, Snohomish, Skagit, San Juan Islands, and Whatcom Counties)  
Melbourne Tower #921, 1511 Third Ave, Seattle, WA 98101-1626

### **Spokane District Office**

(for complaints from Eastern Washington, including Spokane, Whitman, Okanogan, Lincoln, Ferry and Stevens County)  
Rock Point Plaza III, 1330 North Washington Street, Suite 2460, Spokane WA 99201  
509-568-3196

## **POLICY ON FACULTY-STUDENT AND SUPERVISOR-SUBORDINATE RELATIONSHIPS**

### **Introduction**

Washington State University employees, regardless of position, rank, or professional relationship, may rightfully develop consensual relationships. Washington State University values an environment of inclusion, trust, and respect as beneficial for learning and working. As a matter of sound judgment, faculty, graduate teaching and research assistants, residence hall officers, and other supervisory employees in the University community accept responsibility to avoid any apparent or actual conflict of interest between their professional responsibilities and their personal relationships with students or those whom they supervise, evaluate, or exercise other relationships of power or authority. Romantic and/or sexual relationships between a faculty member and a student, or a supervisor and subordinate, may potentially pose risks to the faculty member, student, supervisor, subordinate, or third parties. In such relationships voluntary consent by the student or subordinate is suspect because of the inherently unequal nature of the relationship. A romantic and/or sexual relationship between a faculty member and a student, or a supervisor and subordinate, can lead to a complaint of sexual harassment when the student or subordinate perceives he or she was exploited. In addition, other faculty members, staff members, supervisors, students, or employees may express concerns about undue access or advantage, favoritism, restricted opportunities, or

unfavorable treatment as a result of the relationship. These concerns are damaging whether the favoritism is real or perceived. Concerns also arise in cases where the relationship between the faculty member and student, or supervisor and subordinate, remains amicable, as well as in cases that lead to allegations of exploitation. To ensure that the advising, mentoring, evaluation and supervision students or subordinates is conducted fairly, romantic or sexual relationships between faculty and students, and supervisors and subordinates are prohibited as set forth in this policy. This policy deals only with evaluative and supervisory relationships and not with committed relationships that fall under the definition of discrimination, sexual harassment, or nepotism

### **Policy**

Faculty or anyone in a supervisory role is prohibited from having supervisory responsibility over a student or subordinate with whom he or she is currently having a romantic and/or sexual relationship. Supervisory responsibility includes any supervisory role perceived as a position of power or authority, and is not limited to instruction, research, academic advising, coaching, service on research and thesis (dissertation) committees, assignment of grades, evaluation and recommendation in an institutional capacity for employment, scholarships, fellowships, or awards. Supervision may occur on or off campus, in curricular, co-curricular, or extra-curricular activities. Such supervisory responsibilities are prohibited in the case of a current academic or supervisory role, or if the parties may reasonably anticipate that an evaluative role may exist in the near future.

Relationships between individuals in which neither party is in a position to evaluate or supervise the other party are not within the scope of this policy so long as neither party participates in decisions that may reward or penalize the other and so long as such an evaluative relationship is not reasonably anticipated by the parties.

Romantic or sexual relationships in which one party is in a position to influence the career of the other, yet the relationship presents no clear or direct evaluative or supervisory conflict, may provide grounds for complaint by third parties when the relationship provides undue access, advantage, or restricts opportunities. Relationships resulting in indirect or inappropriate influence are prohibited. When a supervisory role or position of power and authority is imposed on an existing consensual relationship, the roles of the individuals in the supervisory and subordinate positions must be clearly established within the existing administrative structure.

In spite of these warnings, the University recognizes that sometimes such relationships occur. When a romantic and/or sexual relationship occurs or develops between a faculty member and a student, or a supervisor and subordinate, exercising a role in the evaluation or supervision of another individual an inherent conflict of interest arises. The faculty member or supervisor must disclose the relationship to an appropriate supervisor, with faculty or students disclosing the relationship to the appropriate department chair, program director, associate dean, vice-chancellor, or Dean of Students. In each case, the administrative supervisor shall make suitable arrangements for the objective supervision and evaluation of the student or subordinate partner's academic or job performance, and provide for the protection of individual and University interests.

### **Employees**

If a supervisor enters into or engages in a sexual or romantic relationship with a subordinate employee, the supervisor must immediately report the relationship to their appointing authority so that a solution to the conflict of interest may be sought. The means of removing the conflict of interest must be reported to, and approved by the appointing authority within the unit, college, or campus and the appropriate vice president. Alternatives to the conflict of interest may include termination of the consensual relationship or appropriate changes in the supervisory/subordinate work environment.

### **Faculty**

It shall constitute unprofessional conduct for faculty members to engage in romantic or sexual relationships with students, staff members or faculty members if the supervising faculty either currently has or will be given responsibility for or has influence over the supervision of, or evaluation (including recommendations for other employment, advancement, academic or professional progress) of the subordinate individual. If such a relationship exists, the supervising faculty shall immediately report the relationship to the department chair, program director, dean or chancellor with the intent of seeking alternative classes, advisors, or supervision. A written plan to resolve the conflict of interest developed by the faculty member, the academic administrator (in most cases, the department chair), and the head of the academic unit (e.g. dean, director, chancellor or equivalent) must be approved by the Office of the Provost. If no alternatives can be identified, the romantic or sexual relationship must be discontinued until the faculty member no longer exercises supervisory responsibility for the student.

### **Violations**

Sanctions will not ordinarily be imposed when developing romantic and sexual relationships are promptly self-reported and measures are taken to remove the conflict of interest, so long as the relationship is not alleged by one of the parties to be non-consensual or discriminatory. If the relationship is alleged to be non-consensual or discriminatory, the matter may be referred to the Center for Human Rights.

Persons, who have not self-reported and are determined to have violated this policy shall be subject to sanctions imposed using the applicable University policies and handbooks (e.g., the *WSU Faculty Manual*, the *Administrative Professional Handbook*, WAC 357-40, applicable collective bargaining agreements, and for students the *WSU Standards of Conduct for Students*, WAC 504-25). Sanctions for employees will be chosen in consultation with the appointing authority and Human Resource Services. Sanctions for faculty members will be chosen in consultation with the Vice Provost for Faculty Affairs. Sanctions may include: mandatory training or counseling, transfer or reassignment, verbal or written warning, censure, demotion, reduction in pay, withholding of pay increases, denial of professional or retraining leave, withholding of promotion, suspension, summary suspension, or dismissal.

The chosen sanction will be proportional to the severity of the offense as judged by the totality of the circumstances of the incident (the nature, frequency, intensity, location, context, method of discovery, and duration of the alleged behavior). The chosen sanctions will be adequately severe to reasonably deter and assure prevention of future offenses. The sanctions imposed

will be described to the parties involved in the relationship. The violation of policy and the imposed sanctions will also be reported in the annual review and/or tenure and promotional file of the persons violating the policy.

### **Retaliation prohibited**

No one shall suffer penalty or retaliation, including any actions that may dissuade a reasonable person from making or supporting a charge, for reporting a relationship that violates this policy. Retaliation against any person for bringing forward or participating in the investigation of a complaint under this policy forms independent grounds for taking appropriate disciplinary action.

### **Malicious and Frivolous Allegations Prohibited**

The University will discipline members of the University community who knowingly make false allegations of prohibited faculty-student or supervisor-subordinate relationships. No complaint will be considered malicious or frivolous solely because it cannot be corroborated.

### **Related policies**

Sexual Harassment Executive Policy #15  
Nepotism BPPM # 60.14

**NOTE:** *Non-consensual relationships are addressed in the University's sexual harassment policy. Marital and family relationships are addressed in the University's nepotism policy.*

### **Additional Resources**

Concerns regarding violations of this policy involving **faculty or students** should be reported to the Office of the University Ombudsman or Provost.

- **University Ombudsman**  
Wilson Hall, Room 2  
(509) 335-1195 [www.wsu.edu/~ombuds/](http://www.wsu.edu/~ombuds/)
- **Office of the Provost**  
French Administration, Room 436  
(509) 335-5581 [www.provost.wsu.edu](http://www.provost.wsu.edu)

Concerns regarding violation of this policy involving **other employees** should be reported to Human Resource Services.

- **Human Resource Services**  
French Administration, Room 139  
(509) 335-4521 [www.hrs.wsu.edu](http://www.hrs.wsu.edu)
- **Regional Human Resource Services**  
Spokane: 509-358-7740  
Tri-Cities: 509-372-7302  
Vancouver: 360-546-9587

- **Center for Human Rights**  
French Administration Building 225  
Pullman, WA 99164-1022  
509-335-8288 [www.chr.wsu.edu](http://www.chr.wsu.edu)

For resources concerning sexual harassment or other forms of discrimination, please see the Policy Prohibiting Discrimination and Sexual Harassment directly above.

## H. ADMINISTRATIVE PROCEDURES FOR MISCONDUCT IN RESEARCH

Hereafter *misconduct* means misconduct in research and scholarship as defined in IV F.3 above. Misconduct does not include honest error or honest differences in interpretations or judgments of data. This policy pertains to original research and scholarship only and is not intended to replace other policies dealing with academic conduct, such as integrity in class or course work.

### 1. INQUIRY

An inquiry will be made immediately into allegations or evidence of possible misconduct. *Inquiry* means information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants investigation. The Vice Provost for Research shall normally be in charge.

The Dean of a college or the Vice Provost for Research may receive allegations of misconduct in research and scholarship (typically in writing). However, the President of the University, through the Provost and Academic Vice President and Vice Provost for Research, is ultimately responsible for all research programs and activities conducted at the University. Therefore, the Provost through the Vice Provost for Research shall be informed by the Deans of all allegations of misconduct in research and scholarship. Furthermore, the Vice Provost for Research shall consult with the University's Office of the Attorney General on all inquiries and investigations, and this Vice Provost is responsible for directing inquiries into and investigations of misconduct in research and scholarship, and for meeting all reporting requirements established by federal and nonfederal agencies.

The procedures of this policy are not exclusive of other mechanisms for the review of misconduct. In the case of review of allegations of misuse of funds, the University's Internal Auditor, and in some cases outside auditors, shall investigate and report to the proper administrators. In the case of illegal activities, the President retains the power to direct investigations, take interim measures, and request reports on alleged violations. Where an investigation of misconduct under this Policy may be duplicative, and where issues of the proper conduct of scientific research are lacking, the Vice Provost for Research may decide not to conduct an investigation under this policy.

- a) An inquiry must be completed within sixty calendar days of its initiation unless circumstances warrant a longer period. A written report shall be prepared that documents the evidence received, including summaries of interviews, and the conclusions reached. The individuals against whom the allegation was made shall

be given a copy of the report of inquiry. If they comment on this report, their comments will be made part of the record. If the inquiry takes longer than sixty days, the record of the inquiry shall include documentation of the reasons for exceeding the sixty-day period.

- b) The privacy of those who have reported apparent misconduct will be protected to the fullest extent possible.
- c) The affected individuals will receive confidential treatment to the fullest extent possible; they are also entitled to a prompt and thorough inquiry, and they will have an opportunity to comment on allegations and the findings of the inquiry.
- d) If it is determined that an investigation is not warranted, records will be maintained in sufficient detail to permit subsequent assessment of that determination. Such records will be kept in a secure manner for a period of at least three years after the termination of the inquiry, and shall, upon request and where relevant, be provided to authorized personnel.
- e) A decision on whether to proceed to a formal investigation shall be made by the Vice Provost for Research and the Provost and Academic Vice President. If an investigation is deemed unwarranted, the Vice Provost for Research will take steps to protect the party or parties who made the allegation, and the individual(s) charged with misconduct. Also, the Vice Provost for Research and the Provost and Academic Vice President will take steps to repair any damage done to the reputation of individuals falsely accused.
- f) In case of apparent false *and* malicious accusations, an inquiry will be initiated (as noted under 1.a.) of the accuser(s).

## **2. Investigation**

If warranted, an investigation will begin following the inquiry as described above. *Investigation* means the formal examination and evaluation of all relevant information to determine if misconduct has occurred.

- a) Investigations will begin within thirty days of the completion of the inquiry by a committee appointed by the Vice Provost for Research, composed of at least three faculty members familiar with the research or scholarship at issue in the alleged misconduct including at least one faculty member from a relevant area of research or scholarship whose academic appointment is outside of the college of the accused individual(s).
- b) The investigation will include examination of all pertinent documentation, publications, and correspondence, and any memoranda related to telephone calls. Whenever possible, interviews will be conducted with all individuals involved in making the allegation, or against whom the allegation is made, or other individuals who might have information pertinent to the allegations. Summaries of the interviews will be prepared, provided to the interviewed parties for comment or revision, and included as part of the investigation file.
- c) Precautions will be taken to prevent real or apparent conflicts of interest on the part of those involved in the investigation.

- d) Diligent efforts will be made, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed, and also to protect the positions and reputations of those persons who have made allegations in good faith.
- e) Documentation will be prepared and maintained to substantiate the investigation's findings.
- f) An investigation of misconduct will be completed within one hundred twenty business days of its initiation. This includes conducting the investigation, preparing a report of the findings, and making the report available for comment to the subjects of the investigation.
- g) When allegations of misconduct have been substantiated, appropriate sanctions will be applied as prescribed by the *Faculty Manual*, and the State of Washington Higher Education Personnel Board rules and regulations, and the present document.

### 3. When Federal Funds Are Involved

When allegations of misconduct in research and scholarship involve the use of federal funds, the following additional steps will be followed:

- h) The Vice Provost for Research will notify the relevant federal agency prior to an investigation and within 30 days following the completion of an inquiry. If there is indication of criminal violations, the Vice Provost for Research will notify the relevant federal agency within twenty-four hours of obtaining appropriate evidence.
- i) When appropriate, documentation of the investigation's findings will be made available to a relevant federal agency.
- j) The University will be responsible for notifying relevant federal agencies if any of the following exist during an inquiry or investigation: an immediate health hazard; an immediate need to protect extramurally obtained funds or equipment; an immediate need to protect any parties involved; or, in the case of possible criminal violation if the incident is going to be reported publicly.
- k) Interim administrative actions will be taken, as appropriate, to protect federal funds and to insure that the purposes of federal financial assistance are carried out.
- l) The University will keep the relevant federal agency apprised of any developments during the course of the investigation that may affect current or potential funding for the individual under investigation or are necessary for the federal agency to protect the public interest.
- m) The report of the investigation, completed within 120 days, will be submitted to the relevant federal agency along with the final outcome of the investigation.
- n) While the University is primarily responsible during the period of inquiry and investigation, a relevant public agency may perform its own investigation at any time prior to, during, or following the university's investigation and may impose sanctions determined by its own investigation.