

WSU STUDENT CONDUCT PROCESS A Guide for Parents¹

Student conduct at Washington State University.

Those of us responsible for the student conduct process at Washington State University take our professional responsibilities seriously. The Standards of Conduct for Students (Washington Administrative Code Chapter 504-26) represents the standards of conduct that form the basis for behavioral expectation within our academic community. The enforcement of the Standards of Conduct should be accomplished in a fair and reasonable manner, protecting the rights and safety of our community. The main purpose of our conduct system is education. The goal is to have every incident of misconduct create a learning opportunity for the student.

This guide serves as a basic introduction to the WSU conduct process. Your role in our process is to help your student navigate the process, and encourage accountability, growth, and development.

General Overview of Student Conduct

Universities began addressing student misconduct as far back as 1822 when a group of University of Virginia students rioted on the UVA Lawn. In response to this incident Thomas Jefferson wrote:

“The article of discipline is the most difficult in American education. Premature ideas of independence, too little repressed by parents, beget a spirit of insubordination, which is the greatest obstacle to science with us, and a principal cause of its decay since the revolution. I look to it with dismay in our institution, as a breaker ahead, which I am far from being confident we shall be able to weather.”

Student discipline is not therefore a recent invention of contemporary higher education. Discipline as used by Jefferson has however undergone an evolution of sorts over the years. Modern disciplinary practices trace their routes to the 1961 case of *Dixon v Alabama State Board of Education*. In *Dixon*, the students argued that their meeting with the administrator did not meet the standards for due process. As a result of this meeting, the students were expelled from the institution. The Court ruled that students should be given at least notice of the charges and an opportunity to be heard. The court also said that a full criminal hearing is not required.

Over the years, *Dixon* has been tested from time to time. The basic decision still prevails. In a more recent case, *Flaim v Medical College of Ohio*. Flaim was expelled from the medical college for a felony drug conviction. In *Flaim*, the court returned once again to the due process standards set forth by *Dixon*. That is, the more serious the repercussions, the more procedure that is due.

¹ Adapted from *the Student Conduct Process: A Guide for Parents. A publication of the Association for Student Conduct Administrators, 2006.*

However, in both cases, the courts have consistently stated that even where a student is facing expulsion from the institution, the process that is due need not be as elaborate as the process that would be due in a criminal hearing. Thus, students facing disciplinary action from their institution generally are not entitled to have an attorney represent them, to cross-examine witnesses or have an appeal unless the institution's conduct code allows for these procedures. WSU, however, recognizes additional rights and process, so the WSU conduct system allows for advisors (as defined below), a limited right of appeal, and the ability for a student to ask questions through the Conduct Board chair, if the situation results in a conduct board hearing.

What to do when your student is involved in the WSU conduct process.

The following section provides some recommendations for family members when they discover that their student is involved in the conduct process:

1. Understand that there is a process in place to hear all the information regarding the incident in question and encourage your student to prepare him or herself for the process, and to engage with the Office of Student Conduct (OSC) if they have any questions.
2. If your student receives documentation from OSC, direct him or her to contact us for information.
3. The Federal Education Rights & Privacy Act of 1974 (FERPA) precludes WSU from discussing your child's academic or disciplinary record without his or her written permission. Thus, we are unable to give specifics regarding the incident or the student's situation to family members. This also empowers the student to learn how to solve their own issues and concerns.
4. Educate yourself on our process. The most relevant information is available at our website (standards.wsu.edu) and in the Washington Administrative Code Chapter 504-26 (Standards of Conduct for Students, available at (<http://apps.leg.wa.gov/WAC/default.aspx?cite=504-26>)).
5. Practice the "24 hour rule." You may receive a call from your student because he or she is upset about facing charges. You may be tempted to try to immediately fix the problem. Try to allow 24 hours to inform, guide, teach, observe, and chastise (if necessary). WSU conduct officers take their responsibilities as educators very seriously, and do their best to provide a fair system for all students, while providing students with support to effectively handle the situations in which they find themselves.

Frequently Asked Questions

Q. How is a conduct complaint filed?

Anyone can file a complaint. The University may receive reports from the WSU Police Department, Pullman Police Department, WSU Residence Life, faculty, staff, community members, and students. To file a complaint, your student may contact OSC directly, or use the reporting form available at our website.

Q. If my student is charged with a violation of the Standards of Conduct, and chooses to not meet with a WSU conduct officer, what happens?

If a student may have violated the Standards of Conduct, they are informed of the charges via letter that is sent to his or her WSU e-mail address.

When students are charged with a violation, they have the opportunity to schedule a meeting with a conduct officer. If they choose not to, or fail to reschedule the meeting per the notice, a hearing and a determination of responsibility may be heard in their absence.

Q. What is the difference between “contesting” and “appealing”?



Contesting: In some matters, the conduct officer may inform a student of the allegations against them and allow the student to accept responsibility for the violations and agree to complete the sanctions assigned without ever meeting with a conduct officer. In these cases, the student will receive a letter outlining the allegations and sanctions. But conduct officers will also allow the student to contest if they do not want to accept responsibility initially.

If the student chooses to contest, they will be required to meet with a conduct officer, and explain their version of the incident(s). This meeting may result in one-on-one hearing with the officer.

Appealing: If a conduct officer or conduct board renders a decision that a student does not agree with, they have the opportunity to appeal according to Standards of Conduct appeal requirements. More information on appeals is below.

Q. How is a student found responsible for violating the Standards of Conduct within the conduct process?

In less severe cases, the decision can be made by a conduct officer. This is often described as an administrative hearing. Also, the student can accept responsibility for the violation, and any resulting sanctions, without having to go through an administrative (i.e., one-on-one) hearing with the conduct officer. Agreeing to responsibility for the violation is not appealable.

Any case that is deemed more serious may go to the Director of OSC or a University Conduct Board made up of faculty, staff, and students.

Q. What type of sanctions may be imposed on a student that is found responsible?

Sanctions are designed to be educational in nature, and depend on the nature of the violation, any mitigating or aggravating factors, and any of the student's past interactions with the office.

Sanctions can include:

- Warning
- Probation
- Suspension
- Expulsion
- Loss of privileges
- Reflection papers
- Educational projects
- Alcohol & Drug courses
- Removal or relocation from Residence Halls
- Online education modules
- Letters of apology
- Community service

Q. How is the WSU conduct process different than the criminal court process?

WSU's conduct process may be instituted without regard to pending civil or criminal litigation. The conduct process may be carried out prior to or simultaneously with the court process. Accordingly, there are several differences between the WSU conduct process and the criminal court process:

1. The Standards of Conduct is different from criminal statutes. Criminal prosecutions take place only when violations of law are alleged. On campuses, there are many types of violations that may not be violations of the law, but violate institutional community standards, such as academic dishonesty.
2. A second major difference between the campus process and the criminal process is the standard of proof. On most campuses, there must be a preponderance of the evidence, enough evidence to tip the scales (i.e. 51% or "more likely than not"), before a student is found responsible for violating the student conduct code. This is the same standard used in

most civil cases. Some institutions use the clear and convincing standard that is around 75%-80%. In contrast, the standard in a criminal case is beyond a reasonable doubt, which is a 97%. WSU uses the preponderance of the evidence standard of proof.

3. Yet another difference is that the process on many campuses is an administrative hearing and not a trial, and as such not adversarial in nature. Hearings are not required to follow court rules, such as evidentiary rules or formal rules of procedure.
4. Students must speak for themselves. They are not permitted to have an attorney, or anyone else, speak on their behalf. This is mainly to preserve the educational nature of university conduct hearings. It is important for students to represent themselves and to explain their conduct to others.
5. Determinations made under the same facts that give rise to a violation of the Standards of Conduct and a criminal charge are not subject to change if the charges were dismissed, or if the matter was otherwise resolved.
6. Students may remain silent during the conduct processing, but they lose the right to explain themselves.
7. Finally, the student conduct process is educational in nature. The sanctions imposed tend to focus on repairing any harm to the WSU community, victims, and WSU as a whole. They also take into account what the student needs to learn from the incident. The process focuses on helping the student understand why his/her behaviors violated community standards and how the person can avoid making the same mistake again. It is also focused on helping the student see how the instances of misconduct affect others. In certain instances of repeat violations, or severe circumstances of violence, drugs, sexual assault, use of weapons, etc., students may be facing separation from the institution.

Q. Can my student appeal a decision?

Students may appeal decision of a conduct officer or the conduct board to the appeals board. This is a limited appeal, and is not a rehearing. If the student chooses to, he or she must do so in writing (stating the grounds and arguments) to the Office of Student Conduct, within twenty-one days of the date of this letter. If they choose to not to appeal, this decision becomes final. The following are grounds for appeal:

- (a) Whether the university conduct board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the standards of conduct for students were violated, and giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice results.
- (b) Whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct for students occurred.
- (c) Whether the sanction(s) imposed were appropriate for the violation of the standards of conduct for students which the student was found to have committed.

(d) New information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original student conduct board hearing.

If the student comes to an agreement with a conduct officer on responsibility and sanctions, there is no appeal.

Q. How can the university hold my student accountable for an incident that occurred off campus?

The university reserves the right to assert jurisdiction for incidents that occur off campus when such behavior is detrimental to the University's mission. Students acknowledge the University's right to take action for behavior both on and off campus as a term of their application, admission and enrollment.