

Purpose

This protocol provides guidance and steps university employees can take when receiving complaints about student speech. WSU recognizes that students have protected speech rights, as well as the right not to be subjected to discriminatory harassment. This protocol ensures concerns are appropriately routed, subject to review under relevant university policies, and that supportive or alternative measures are taken when necessary. This protocol does not address employee speech (covered by relevant employee manual, state ethics rules, or as prohibited under WSU policies such as the WSU Policy Prohibiting Discrimination and Harassment).

Requirements

WSU students' speech is protected in most circumstances, but there are some exceptions, including speech that violates one of the following:

- WSU Policy Prohibiting Discrimination and Harassment, Executive Policy 15 (EP 15), **Discriminatory Harassment**: Unwelcome, intentional conduct, on the basis of membership in a protected class, other than sex, which is so severe or pervasive, and objectively offensive, that it substantially and unreasonably:
 - Interferes with, or has the potential to interfere with, an individual's ability to participate in WSU employment, education, programs, or activities;
 - Adversely alters the condition of an individual's WSU employment, education, or participation status;
 - Creates an objectively abusive employment, program, or educational environment; or
 - Results in a material or substantial disruption of WSU's operations or the rights of students, staff, faculty, visitors, or program participants.
- WSU Standards of Conduct for Students, Washington Administrative Codes 504-26-20, **Disruption or obstruction**: Students have the right to freedom of speech, including the right to dissent or protest, but this expression may not interfere with the rights of others or disrupt the university's activities. Prohibited behavior includes: Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other university activities, including its public service functions on or off campus, or of other authorized nonuniversity activities when the conduct occurs on university premises or is directed toward any member of the university community by any means including use of telephone, computer, or some other medium.
- WSU Standards of Conduct for Students, Washington Administrative Codes 504-26-204, **Abuse of others or disruption or interference with the university community**: Abuse of others or disruption or interference with the university community includes, but is not limited to:
 - Physical abuse, threats, intimidation, and/or other conduct that threatens, endangers, harms, or undermines the health, safety, or welfare of the university community or any person, including, but not limited to, domestic or intimate partner violence.
 - Conduct that disrupts the university community or prevents any member of the university community from completing their duties.

- Conduct that interferes with or disrupts the university's mission, operations, or activities.

In all complaints about student speech received by WSU, WSU reviews the matter using the above policy requirements. Pursuant to 20 US Code 1011(a), WSU does not exclude from participation, deny benefits, or subject an individual to discrimination or official sanction for speech which is not in violation of university policy. In general, with limited exceptions, WSU promotes the free and open exchange of ideas.

WSU also provides for reasonable time, place, and manner restrictions for use of the university's limited public forum areas for activities protected by the First Amendment, under Washington Administrative Code 504-33.

Protocol

In general, WSU will follow the below basic steps when receiving complaints regarding student speech:

1. For written, verbal, or expressive speech occurring in a classroom environment, including in-person, via conferencing tools like Zoom, or in instructional tools like Blackboard, the instructor will objectively determine whether the speech is appropriate for the classroom educational topics; the instructor may take immediate steps to discourage or end disruptive speech in order to proceed with the required academic instruction.
2. Report to Compliance and Civil Rights and/or the Center for Community Standards for review under university policies and procedural guidelines.
3. Provide outreach and information about supportive measures and how to file a complaint to impacted individuals, as appropriate.
4. Provide outreach and information about supportive measures and the report to potential respondents, for purposes of education or investigation, as appropriate.
5. Acknowledge receipt of a student speech concern and direct impacted individuals to the appropriate reporting office.
6. Determine whether additional university communications or response is appropriate, in consultation with university stakeholders.

Additional information about each of these steps is described in the below sections.

Classroom Disruptive Speech

Instructors are responsible for providing education to a diverse population of students. In all classrooms and academic environment, including in-person or online, some disruptions may exist, including minor disruptions, such as talking out of place in class, or more serious disruptions, which may include harassing, intimidating, loud, or interrupting speech. More serious disruptions may need to be addressed in the moment, particularly if they are substantially or repeatedly interfering with an instructor's ability to teach or other students' right to learn. In order to address disruptions in the classroom space, instructors are encouraged to:

1. Clearly set behavioral expectations for students; share that conduct violating behavioral expectations may be reported to Compliance and Civil Rights and/or the Center for Community Standards.

2. Where speech is objectively disruptive to the educational instruction, respond to disruptions immediately, which may include one of the following options:
 - a. Respectfully requesting the conduct cease;
 - b. Redirecting the educational conversation;
 - c. Where behavior is persistent, notifying the student that they must leave the classroom environment; students may also be removed by the instructor in an online environment or it may be appropriate to contact WSU police or campus safety for in-person environments.
3. Report the conduct to Compliance and Civil Rights and/or the Center for Community Standards for review under university policy, if appropriate.
4. If there is an immediate risk to the physical safety of others, please call 911. Where threats are made towards the WSU community, those should also be reported to CCS. Where there are concerns for student wellbeing, for either the student engaging in the speech or the impacted students, report the conduct to the Student Care Network.

Special considerations for online disruptions

Disruptive speech in an online conferencing tool such as Zoom or within educational software such as Blackboard or Canvas may be addressed in a similar fashion as described above. However, the speech may come in unexpected forms, such as Zoombombing or appear on message boards that an instructor is not monitoring. In order to address disruptions in these online spaces, instructors are encouraged to follow the steps listed in the above section and also to:

1. Familiarize themselves with the software controls and consider whether it is appropriate to:
 - a. Mute participants;
 - b. Limit which participants can share their screen;
 - c. Control entry into the meeting/class; or
 - d. In rare cases, removing message board/online discussion posts (in consultation with the Office of the Attorney General).
2. Set clear expectations regarding what types of message board/online discussion posts are appropriate.

Instructors can access resources to familiarize themselves with software controls here:

- Zoom: <https://its.wsu.edu/wsu-video-conferencing-services/>
- Blackboard: <https://li.wsu.edu/trainings-workshops-tutorials/>
- Canvas: <https://lmstransition.wsu.edu/training-contacts/> or after the LMS transition, trainings should be available here: <https://li.wsu.edu/trainings-workshops-tutorials/>

Furthermore, because the anonymity of online conduct may embolden individuals who engage in disruptive speech, the speech may impact other students in a class. It is important to communicate support to students who have been affected and to connect them with university resources.

Formal Reports/Complaints – Compliance & Civil Rights

Concerns about student speech activities involving discrimination or discriminatory harassment will be reported to Compliance and Civil Rights (CCR) for review under EP 15. CCR will follow the CCR Procedural Guidelines and EP 15 for all reported concerns. Upon receiving a report:

1. CCR will send information about supportive measures and filing a formal complaint to reporting parties or complainants, as appropriate.
2. CCR will provide complainants with the opportunity to file a formal complaint; if CCR does not receive a formal complaint, the CCR director may decide to file a formal complaint, if appropriate.

Upon receiving a formal complaint, CCR will assess the information in the formal complaint under EP 15. If the alleged speech, if true, would constitute a violation of EP 15, CCR will engage in a formal process, an investigation or informal resolution, as appropriate. Investigations may lead to campus disciplinary actions through the requirements of the Standards of Conduct for Students. Some speech may not rise to the level of a violation of EP 15; if so, it may also be referred to the Center for Community Standards (CCS) for review under the Standards of Conduct for Students (see next section).

For all concerns received about student speech activities (including where conduct does not merit an investigation under EP 15 (e.g. the speech, if true, does not constitute a violation of EP 15), but is still reported to be harmful or offensive to some individuals on the basis of a protected class), CCR may:

1. Provide outreach and facilitate supportive measures to individuals affected, working with campus partners such as the Division of Student Affairs or an affected department.
2. Send educational outreach to the respondent to share information about the reported concern, university policy, and impact on WSU community, if applicable. WSU can provide the respondent an opportunity to contextualize the speech, to learn about the impact, and to provide additional information to the university. The respondent is not required to respond to this outreach, and the outreach is not to be construed as an investigation.
3. Provide an opportunity for the respondent to meet with a representative from the Division of Student Affairs, if doing so would benefit the community and/or the respondent, for the purposes of discussing the incident and resources on campus.
4. Share the reported concern with a campus Community Response Team/leadership, in order to facilitate a broader university response, including engaging in counter-speech, promoting education or alternative programming, or informing the community where the speech is occurring, so the community can decide for themselves if they want to participate in or avoid engaging in related activities.

Formal Reports – Center for Community Standards

Concerns about student speech activities involving non-discriminatory harassment or abuse will be reported and/or referred to the Center for Community Standards (CCS) for review under the Standards of Conduct for Students. CCS will review the report and decide whether or not to proceed with initiating the community standards process. Where appropriate, CCS will proceed with a conduct officer hearing or a University Conduct Board hearing. Where reported speech does not implicate the Standards of Conduct for Students, CCS may:

1. Refer impacted parties to the Office of the Dean of Students for outreach and support.

2. Engage in educational outreach to a respondent regarding the concern and the Standards of Conduct for Students.
3. Provide an opportunity for the respondent to meet with a representative from the Division of Student Affairs, if doing so would benefit the community and/or the respondent.
4. Share the reported concern with a campus Community Response Team/leadership, in order to facilitate a broader university response, including engaging in counter-speech, promoting education or alternative programming, or informing the community where the speech is occurring, so the community can decide for themselves if they want to participate in or avoid engaging in related activities.

WSU Communications\Informal Response regarding Protected Speech

Certain types of speech may be more broadly seen and more broadly disruptive than others (e.g. post that have gone viral on social media or speech events that are widely publicized). For these situations, it may be appropriate for WSU to engage in one of the following activities:

1. **Sharing information about WSU's process.** For example: "WSU is aware of this reported concern and has forwarded this information to [Compliance and Civil Rights (CCR) *and/or* the Center for Community Standards (CCS)] for review under [the WSU Policy Prohibiting Discrimination and Harassment *and/or* the WSU Standards of Conduct for Students]. Individuals with more information about the incident are asked to share information directly with [CCR *and/or* CCS]."
2. **Developing a broader university communications response.** This may include:
 - a. Meeting with relevant university stakeholders (see phone tree in Appendix A), including the campus Community Response Team/leadership, Student Affairs leadership, WSU Communication personnel, the Director of CCR, Office of the Provost or Academic leadership, and campus safety or police, as necessary.
 - b. Providing leadership an opportunity to condemn the speech or to engage in counter-speech.
 - c. Promoting education or alternative programming.
 - d. Providing information about the speech to the campus community, so that the community can decide for themselves if they want to participate in the speech or avoid engaging in related activities.
 - e. Identifying whether or not an equity assessment of university policies, programs, or activities is warranted under the circumstances.

Appendix A: Relevant Pullman contacts

For matters requiring broader stakeholder review, the following individuals should connect in a meeting or via email:

1. Vice President for Marketing and Communication, Phil Weiler (or delegate)
2. Associate Vice President of Student Affairs & Dean of Students / Deputy Title IX Coordinator, Jill Creighton
3. Associate Vice President for Community, Equity, and Inclusive Excellence, Jaime Nolan
4. Director of CCR, Holly Ashkannejhad
5. Chair of the Community Response Team, Matthew Jeffries
6. Relevant department head or chair, for matters impacting a specific department
7. Office of the Provost or College Academic leadership, as necessary
8. Senior Associate Director of Athletics, Bryan Blair, for matters involving Athletics

Appendix B: Relevant Spokane contacts

For matters requiring broader stakeholder review, the following individuals should connect in a meeting or via email:

1. James Mohr, Vice Chancellor for Student Affairs/Deputy Title IX Coordinator
2. Gwen Halaas, Vice Chancellor for Academic Affairs
3. Jane Summers, Senior Director for Student Affairs
4. Kim Papich, Communications and Public Affairs Director
5. Appropriate academic Deans and Directors

Appendix C: Relevant Vancouver contacts

For matters requiring broader stakeholder review, the following individuals should connect in a meeting or via email:

1. Director of Marketing and Communication, Brenda Alling
6. Vice Chancellor for Student Affairs/Deputy Title IX Coordinator, Domanic Thomas
2. Associate Vice Chancellor for, Equity, Diversity, and Inclusion, Obie Ford III
3. Director of CCR, Holly Ashkannejhad
4. Relevant academic director, for matters impacting a specific department
5. Office of Academic Affairs, Renny Christopher, Vice Chancellor or Thabiti Lewis, Associate Vice Chancellor

Appendix D: Relevant Tri-Cities contacts

For matters requiring broader stakeholder review, the following individuals should connect in a meeting or via email:

1. Chris Meiers, Vice Chancellor for Student Affairs, Deputy Title IX Officer
2. Kate McAteer, Vice Chancellor for Academic Affairs or designee
3. Relevant Academic Director (if applicable)
4. Jordyn Creighton, Director, Student Support Services, Community Standards Officer
5. Damien Sinnott, Director of Business Services and member of campus D&I committee

Appendix E: Relevant Everett contacts

For matters requiring broader stakeholder review, the following individuals should be contacted via email:

1. Mark Beattie, Assoc. Vice Chancellor
2. Anna McLeod, Assoc. Dir. of Student Affairs
3. Randy Bolerjack, Dir. of Marketing and Communication

Appendix F: Relevant Global Campus contacts

For matters requiring broader stakeholder review, the following individuals should be contacted via email:

1. Rebecca Van de Vord, Vice Chancellor of Academic Affairs
2. Debbie O'Donnell, Vice Chancellor of Student Affairs/Deputy Title IX Coordinator