



THURSDAY, JUNE 4, 2015

PUBLIC MEETING, FORD ALUMNI CENTER, GIUSTINA BALLROOM

**8:30 am (other times approximate) – Convene Public Meeting**

- Call to order and roll call/verification of quorum

**1. Approval of Minutes from March and April 2015 Meetings****2. Invited Academic Presentations**

- 2.1 School of Architecture and Allied Arts – Brook Muller, Interim Dean
- 2.2 Natural Sciences (CAS) – Andrew Marcus, Interim Dean; Hal Sodofsky, Associate Dean for Natural Sciences

**3. Reports and Public Comment**

- Public Comment
- ASUO President's Report
- Senate President's Report
- President and Provost's Report

**12:00 pm** – Recess for Small Group Lunches with UO Staff**1:45 pm** – **Reconvene Public Meeting** (verification of quorum)**4. Committee Reports / Resolutions**

- 4.1 Executive and Audit Committee Report and Referrals
- 4.2 Academic and Student Affairs Committee Report and Seconded Motions  
*--Resolution: Amendments to the Student Conduct Code (pending June 3 committee approval)*
- 4.3 Finance and Facilities Committee Report and Seconded Motions  
*--Resolution: AY15-16 budget proposal (pending June 3 committee approval)*  
*--Resolution: Adoption of legacy pension plans (pending June 3 committee approval)*  
*--Resolution: Approval of a capital project (pending June 3 committee approval)*
- 4.4 Presidential Factors Committee Report

**(Public Meeting Recessed)****5. AAA Design Reviews [4:00-5:30]**

Trustees will observe student design reviews in the School of Architecture and Allied Arts.

FRIDAY, JUNE 5, 2015

PUBLIC MEETING, FORD ALUMNI CENTER, ROOM 403

**9:00 am** – **Reconvene Public Meeting** (verification of quorum)**6. Update on current collective bargaining (Executive Session)****(Meeting Adjourned)****10:30 am - 12:00 pm** – Trustee-Faculty small group discussions



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## Agenda Item #1

### Approval of March and April 2015 Minutes

*The draft minutes for March and April 2015, were emailed to the Board of Trustees on May 22, 2015.*



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## Agenda Item #2

### Invited Academic Presentations



Interim Dean and Associate Professor Brook Muller examines synergies between ecological processes and urban development. He considers relationships between architects' initial conceptual organizational ideas and the environmental responsiveness of what is built. He teaches design studio as well as courses in architectural theory, urban ecological design and sustainability. He serves as director for the Graduate Certificate Program in Ecological Design within the School of Architecture and Allied Arts.

Prior to joining the faculty at the University of Oregon in 2004, Muller was the director of a program in sustainable environments and an assistant professor at California Polytechnic State University, where he was honored with the Wesley Ward Outstanding Teaching Award in 2002.

In collaboration with ecologist Josh Cerra, Muller developed the guidelines and project descriptions for the 2008 Portland Metro design competition "Integrating Habitats." Juror Susan Szenasy, editor of *Metropolis*, described Integrating Habitats as "a breakthrough in the annals of design competitions" in her monthly editorial. Muller authored an article on the aesthetics of the fusion of architecture and ecological restoration that appears in the journal *Environmental Philosophy* and an essay on metaphor and environmental receptivity in architectural design for the book *Symbolic Landscapes*. Brook was awarded the Oregon Campus Compact Judith Ramaley Faculty Award for Civic Engagement in Sustainability in 2009.

Muller's interest in the interrelation of metaphor, architecture, and the environment developed at Behnisch & Partner Architects in Stuttgart, Germany. He participated in several competition teams and was co-project leader for the design of the National Institute for Nature Research in The Netherlands, a \$30 million, 120,000 s.f. building awarded the 2002 Trophee Sommet de la Terra et Batiment and featured in *Architectural Record*, *New York Times*, *Landscape Architecture*, and the *Architectural Review*.

Dr. Newton received a B.A. from Baylor University, and M.A. and Ph.D. from The University of Texas at Austin.



**W. Andrew Marcus, Interim Tykeson Dean, College of Arts and Sciences**



W. Andrew Marcus has been the Interim Tykeson Dean of the College of Arts and Sciences since 2013. Prior to that, he served for two years as Associate Dean for Social Sciences, which followed a three year stint as head of the Department of Geography.

Dr. Marcus is a geographer whose research focuses on human impacts on rivers and the use of remote sensing technology to map and understand rivers. Much of his work has been in mountain environments and in the Yellowstone ecosystem. He has received numerous honors for his teaching, research and service—the three cornerstones of the University of Oregon mission.

His interest in Yellowstone was a driving force behind the creation of the Atlas of Yellowstone, the first-of-its-kind atlas of a national park and its region. Dr. Marcus, who served as senior editor, received top honors in the 2013 American Publishers Association PROSE (Professional and Scholarly Excellence) Awards, along with his Atlas colleagues.

In 2012, Dr. Marcus was named a fellow of the Geological Society of America. His nomination singled him out for “his contributions [which] have been original, insightful, and well-cited, and have influenced the questions that other scientists ask.”

On campus, Dr. Marcus has been recognized as both a Rippey Teaching Fellow and a Fund for Faculty Excellence recipient; this latter award honors faculty who have distinguished themselves in research, teaching, and leadership. The University of Oregon Senate awarded him the Wayne Westling Award for his “outstanding and long-term leadership and service to the university.”

Dr. Marcus is also the proud parent of two UO graduates, as well as three children who are presently enrolled at UO. One daughter graduated with a double major in geography and environmental studies, the other in geography and French while in the Clark Honors College. His three sons are also spread out across the College of Arts and Sciences where they are majoring in geography, history, and economics, with a minor in chemistry and biochemistry thrown in for good measure.

Dr. Marcus received a B.S. in Geology from Stanford University where he graduated Phi Beta Kappa, an M.A. in Geography from Arizona State University, and a Ph.D. in Geography from University of Colorado.



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### Agenda Item #3

#### Reports and Public Comment

*There are no materials for this section.*



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## Agenda Item #4

### Committee Reports / Resolutions

*Consideration of the following resolutions is dependent upon passage by the relevant committee on June 3, 2015.*



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## Seconded Motion from ASAC

Regarding proposed changes to the Student Conduct Code  
(making temporary changes permanent)

**Board of Trustees of the University of Oregon**

**Seconded Motion: Adoption of Proposed Changes to Student Conduct Code (I)**

Whereas, UO Policy 571-021-0100 stipulates that the primary mission of the Student Conduct Code is to set forth the community standards and procedures necessary to maintain and protect an environment conducive to learning;

Whereas, UO Policy 571-021-0100(2) notes that a corollary mission of the Student Conduct Code is to teach students to live and act responsibly in a community setting, with respect for the rights of other students and members of that community...and to encourage the development of good decision-making and personal integrity;

Whereas, to be effective, the Student Conduct Code must be updated and kept current, and must be in line with state law, federal law and best practices;

Whereas, certain portions of the UO's Student Conduct Code require such updates to reflect best practices and ensure compliance with federal guidance concerning timelines and procedural fairness, as well as updates to reflect current state law;

Whereas, in September 2014, several temporary changes were enacted at the recommendation of the Division of Student Life to ensure compliance while allowing a consultative process on campus prior to making such changes permanent;

Whereas, the Division of Student Life now recommends that existing temporary changes to the Code be made permanent to ensure compliance with state and federal laws, to reflect best practices in the effort to prevent sexual assault, and to update the Code with respect to current governance, practices and naming conventions (see Exhibit A attached hereto for a red-lined version of proposed changes);

Whereas, the Policy on the Retention and Delegation of Authority stipulates that the Board has retained authority to approve any and all changes regarding student conduct policies;

Whereas, ORS 352.029 provides that the Board manages the affairs of the university by exercising and carrying out all of the powers, rights and duties that are expressly conferred upon the board by law, or that are implied by law or are incident to such powers, rights and duties; and

Whereas, the Academic and Student Affairs Committee has referred this resolution to the full Board as a seconded motion, recommending adoption;

NOW, THEREFORE, the Board of Trustees of the University of Oregon adopts the proposed changes to the Student Conduct Code, attached hereto in Exhibit A, as permanent changes.

*--Vote recorded on following page--*

Trustee	Yes	No
Ballmer		
Bragdon		
Chapa		
Colas		
Curry		
Ford		
Gary		
Gonyea		
Kari		
Lillis		
Ralph		
Schlegel		
Wilcox		
Willcox		

Dated: \_\_\_\_\_ of \_\_\_\_\_, 2015.

Initials: \_\_\_\_\_

**EXHIBIT A:**

**Proposed Permanent Changes to the Student Conduct Code**

**(previously adopted as temporary)**

## 571-021-0105 Definitions

[This section of the code outlines the definitions of words commonly used in the code.]

For purposes of the Student Conduct Code, OAR571-021-0100 et seq.:

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(34) "University Appeals Board" means the person or persons authorized by this Code pursuant to OAR571-021-0165 to consider an appeal from the outcome of an administrative conference ~~from a determination by Community Standards Hearings Panel that a student has violated the Student Code.~~

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## 571-021-0110 Delegations and Authority

**Pursuant to ORS 352.010, the faculty is responsible for student discipline. The faculty of the University delegates authority for administering this Code and the Student Conduct Program as provided below:**

(1) The Director of Student Conduct and Community Standards shall develop policies for the administration of the student conduct system and procedural rules for the conduct of Community Standards Hearing Board hearings that are consistent with provisions of the Student Conduct Code.

(a) The Director of Student Conduct and Community Standards and the Community Standards Committee may authorize a Community Standards Administrator to serve simultaneously as a Community Standards Administrator ~~and as a member of the Community Standards Hearing Board~~. The Director may authorize the same Community Standards Administrator to impose sanctions in all cases.

(b) Consistent with OAR571-021-0205(1)(d), the Vice President for Student Affairs-Life or designee may serve ad hoc in place of the Director of Student Conduct and Community Standards.

(2) The Community Standards Committee shall be responsible for formulating or approving, prior to implementation, regulations and enforcement procedures pertaining to student conduct matters at the University of Oregon, and recommending to the faculty Board of Trustees of the University of Oregon policy or administrative changes in any aspect of the Student Conduct Program.

(a) The Committee shall be appointed by the President and shall consist of four faculty members to be recommended by the Committee on Committees and four student members to be recommended by the ASUO. Faculty and student members shall serve staggered, two-year terms and may be reappointed, up to three consecutive terms, or a maximum of six consecutive years. The President may appoint temporary members to assure full Committee membership during summer session or at such other times as are necessary.

(b) The Director of Residence Life or designee, the Director of Student Conduct and Community Standards and the Director of the Office of Student Advocacy shall be non-voting, ex-officio members of the Community Standards Committee.

(3) Sub-delegation of Authority to Minor Tribunals and hearing officers.

(a) With the consent of the President of the University, the Community Standards Committee may sub-delegate jurisdiction to handle violations of the Student Conduct Code to University officials, committees or minor tribunals. In all instances such sub-delegation shall be defined by the Committee in terms of specific jurisdiction, enforceable regulations, and maximum disciplinary sanctions that may be imposed.

(b) Subject to approval by the President, the Community Standards Committee sub-delegates to the Interfraternity Council, Panhellenic Council, Club Sports Executive Committee, and Residence Hall

Association the authority to formulate:

- (A) Regulations governing the conduct of their respective organization members;
- (B) Hearing procedures and administrative practices to be followed by their respective tribunals;
- (C) Disciplinary sanctions exclusive of expulsion, suspension, eviction or negative notation on transcript appropriate to the enforcement of their respective regulations; and
- (D) Procedures for publication and notification to affected students of such regulations, hearing procedures and disciplinary sanctions.

(c) All such regulations, hearing procedures, and disciplinary sanctions shall be reduced to writing and approved by the Community Standards Committee prior to implementation.

(d) The authority granted to minor tribunals and their respective governing bodies is conditional and may be withdrawn at any time by the Community Standards Committee when a minor tribunal is either unable or unwilling to assume its responsibilities as part of the University's Student Conduct Program.

### **571-021-0125 Violations of Community Standards by Student Organizations**

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(3) If, in the judgment of the Vice President of Student [AffairsLife](#), sufficient action is not taken in a timely manner by the governing body, the case will be referred to the Office of Student Conduct and Community Standards.

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### **571-021-0130 Sanctions**

**The University utilizes an educational sanctioning model; hearing officers ~~or panels~~ will make every attempt to provide an educational sanction that will help a student to make better choices in the future. The educational sanction applied will become progressively more demanding if the student repeats violations, demonstrating that learning has not taken place. An accumulation of a variety of violations may result in severe sanctions such as suspension, expulsion or negative notation on a transcript. Academic dishonesty and violations affecting the health, safety and well being of the community are deemed the most severe and may result, upon the first violation, in a negative notation being placed on a transcript, suspension, or expulsion.**

#### (1) Forms of Sanctions

(a) Expulsion. Student status is severed permanently. A Student who has been expelled from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises.

#### (b) Suspension.

(A) Individual Suspension. Student status is severed for a specified period. A student who has been suspended from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises during the period the student is suspended.

(B) Group Suspension. A Student Organization loses University recognition and all privileges associated with such recognition for a specified period. Imposition of this sanction against the ASUO or a recognized Student Organization requires approval by the Vice President for Student [AffairsLife](#).

(c) Negative Notation on Transcript. Entry of the fact of violation on the Student's permanent academic record as the sole or an additional sanction may be imposed at the discretion of the hearing officer ~~or panel~~. After the expiration of the period of time, if any, set by the hearing officer ~~or panel~~, the notation shall be removed upon the request of the Student or former Student.

(d) Revocation of Degree. An academic degree previously awarded by the University may be revoked if it was obtained by fraud or a significant part of the work submitted in fulfillment of, and indispensable

to, the requirements for such degree constitutes Plagiarism. The Academic Requirements Committee may, upon appeal of a University graduate subjected to degree revocation, stipulate the requirements for obtaining a degree.

(e) Grade Penalty. A Student admitting Academic Misconduct or found responsible for Academic Misconduct is subject to a grade penalty as determined by the instructor in the course in which the violation occurred.

(f) Disciplinary Probation. In lieu of another sanction, a period of probation may be imposed during which any violations of the Student Conduct Code will result in more serious sanctions than might be otherwise imposed. A Student or Student Organization on probation may or may not lose designated privileges during the period of probation. During the time on probation, a Student or Student Organization may, by demonstrating good conduct, avoid additional sanctions. Imposition of this sanction against the ASUO or an ASUO-recognized group requires approval by the Vice President for Student Affairs [Life](#).

(g) Restitution. The Student or Student Organization is required to replace or restore damaged, stolen, or misappropriated property.

(h) Educational Activity. The Student or Student Organization is required to complete a project or activity designed to help the Student or Student Organization understand why the behavior was inappropriate and encourage future compliance with the Student Conduct Code. The educational activity is designed to correspond to the severity and nature of the violation and to clarify the impact of that behavior on Members of the University Community. Educational activities may include, but are not limited to, assessments of substance abuse and other behaviors, community service, workshops, papers and similar assignments.

(i) Loss of Privileges. The Student or Student Organization is denied specified privileges normally associated with Student Status or recognized Student Organization status, such as participation in or sponsorship of University activities, use of University facilities or services, or living in University-owned or supervised housing. Imposition of this sanction against the ASUO an ASUO-recognized group requires approval by the Vice President of Student [AffairsLife](#).

(j) Conduct Reprimand. The Student or Student Organization is given written notice that the conduct engaged in is inconsistent with University standards and expectations and informed that future violations of the Student Conduct Code may result in the imposition of more serious sanctions.

(k) Suspended Sanction. The execution of any sanction authorized under the Student Conduct Code may be suspended. When suspending a sanction, a time limit for the suspension period shall be designated, and subsequent violations of the Student Conduct Code that will terminate the suspension and result in the imposition of the original sanction shall be specified. In the absence of any such violation, the original sanction shall be deemed completed at the end of the suspension period.

(2) Medical Leave. Actions taken pursuant to University policies on medical leave shall not be deemed disciplinary sanctions within the meaning of the Student Conduct Code.

(3) Failure to complete a sanction will be handled pursuant to OAR571-021-0240(3).

## **571-021-0140 Student Rights**

**Procedural fairness is basic to the proper enforcement of all University regulations. Accordingly, no disciplinary action shall be initiated or sanction imposed against a Student or Student Organization until they have been notified in writing of the complaints against them and their rights under this Code, and given the opportunity to be heard.**

- (1) Regulations and disciplinary sanctions affecting the conduct of all Students shall be based on general principles of equal treatment.
- (2) The Director of Student Conduct and Community Standards shall insure that the best interests of Students and Student Organizations are served, regardless of whether disciplinary action is taken, by making full use of appropriate medical, counseling and other professional services at the University, or if necessary by making referrals to community resources. For purposes of this Division, the Director may authorize another staff member to carry out any of the Director's responsibilities unless expressly prohibited from doing so.
- (3) Students shall have an opportunity to participate in the formulation of all regulations and policies pertaining to the Student Conduct Code at the University of Oregon.
- (4) All University regulations and policies pertaining to student discipline shall be published, distributed, or posted in such a manner as to furnish adequate notice of their contents to Students or Student Organizations.
- (5) Students accused of violations of the Student Conduct Code can expect the following procedural protections:
  - (a) To be informed of the complaint and alleged misconduct upon which the complaint is based;
  - (b) To ~~request that~~ appear before the Director of Community Standards ~~resolve the case~~ in an administrative disciplinary conference, as outlined at 571-021-205 ~~or to request a panel hearing~~.
  - (c) To be allowed reasonable time to prepare for the ~~hearing or~~ conference.
  - (d) To be informed of the information upon which a complaint is based and accorded an opportunity to offer a relevant response;
  - (e) To ~~call and confront~~ identify relevant witnesses;
  - (f) To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act and Oregon law.
  - (g) To request that any person conducting a disciplinary conference ~~or serving as a hearings board member or hearing officer~~ be disqualified on the ground of personal bias.
  - (h) To be considered not responsible for the alleged conduct until proven responsible by a preponderance of the information.
  - (i) To have an adviser of their choice present at the ~~hearing~~ conference provided that advisor's schedule does not unreasonably delay the ~~hearing~~ conference. The ~~hearings panel~~ Director shall determine what constitutes an "unreasonable" delay.

#### **571-021-0150 Administration of the Conduct System**

**[This section of the code designates who is in control of the Conduct System, and how the code and cases are administered.]**

- (1) Disciplinary Records and Files. Case referrals will result in the development of a disciplinary file in the name of the accused student. If the Student is found not responsible for the complaints, the disciplinary file will become void.
  - (a) Voided files will be so marked and shall not result in a disciplinary record. Voided files will normally be destroyed after one year. Where a Student files a conduct complaint against another Student, a file shall be created for both Students.
  - (b) Disciplinary records may be voided by the Director of Conduct and Community Standards for good cause, upon written petition from the student. Factors to be considered in review of such petitions shall include:

(A) The conduct of the Student subsequent to the violation; and

(B) The nature of the violation and the severity of any damage, injury, or harm resulting from it.

(2) Student Conduct Reports.

(a) The Community Standards Committee shall require from University officials, hearings boards, referees, committees and tribunals periodic written reports of the disposition of all student conduct cases dealt with under their jurisdiction. The Committee shall examine such reports for consistency with existing policies and, when necessary, review the reports with the appropriate officials or tribunals.

(b) At the end of each academic year, the Committee shall submit to the President, University Senate, Deans, Department Heads, the ASUO President, and the Office of Student Advocacy, a written report covering the entire Student Conduct Program, including an evaluation of the existing rules, policies, and enforcement procedures. This report shall also detail all Code revisions approved during the previous year and shall be available to any person upon request.

(3) Director of Student Conduct and Community Standards.

(a) The President of the University shall designate a Director of Student Conduct and Community Standards who shall have primary responsibility for administering the Student Conduct Program and coordinating the activities of all University officials, hearing officers, referees, committees, or tribunals that are concerned with the Community Standards Program.

(b) The Director shall be responsible to the Community Standards Committee for maintaining complete records pertaining to the activities of the Community Standards Program. Those records shall include a summary of the business of the Community Standards Committee and a report of the disposition of each disciplinary case handled by any person or group authorized to impose disciplinary sanctions in the name of the University. For record keeping purposes, the Director may prescribe reporting procedures to be followed, in addition to those in paragraph (2) above by those authorized to impose disciplinary sanctions.

(c) The Director shall serve as non-voting Secretary of the Community Standards Committee and as advisor to all individuals and groups authorized to impose disciplinary sanctions. The Director shall serve as a non-voting, ex-officio member of the Residence Hall Governance Committee and of the residence hall Peer Judicial Board.

(d) The Director shall be responsible for gathering and presenting to the Community Standards Committee the reports required by this code.

(4) Student Conduct Code Adoption, Amendment and Revision.

(a) Code establishment. Upon approval by the Board of Trustees of the University of Oregon University Senate and adoption as an Oregon Administrative Rule, this Student Conduct Code becomes effective and supersedes all previous regulations and policies pertaining to student discipline at the University of Oregon.

(b) Code Amendment. This Code may be amended by the Board of Trustees of the University of Oregon, consistent with the Policy on Retention and Delegation of Authority upon consultation with the president, faculty and students. faculty except that the sections on delegation to minor tribunals may also be amended by the Community Standards Committee. Amendments to this Code are effective when adopted as Oregon Administrative Rules.

(c) Code Revision. This Code shall be continuously reviewed in its entirety to make sure it is consistent with best practices.

~~—(d) This Code is adopted as Oregon Administrative Rules. The provisions contained in these rules take precedence over any other versions of the Student Conduct Code regardless of where promulgated.~~

~~[The University Hearings Board is one option that the student has to have their case reviewed. This section of the code outlines how the members of the Hearings Board are chosen.]~~

~~(1) University Hearings Board Membership. The University Hearings Board (Hearings Board) shall consist of eighteen members, all of whom—~~

~~must be appointed by the University President. The Hearings Board shall consist of:~~

~~—(a) Ten registered students at the University of Oregon that have been recommended to the President by the ASUO. Each student member is appointed for a one-year term and may be reappointed for additional terms;—~~

~~—(b) Four University officers of instruction, all of whom the Committee on Committees of the University Senate shall recommend to the President. Two officers of instruction will serve a one-year term, and the other two will serve a two-year term; and~~

~~—(c) Four University officers of administration all of whom the Committee on Committees of the University Senate shall recommend to the President. Two officers of administration will serve a one-year term, and the other two will serve a two-year term.~~

~~(2) Recruitment and selection of student nominees.~~

~~—(a) The Office of Student Conduct and Community Standards and Office of Student Advocacy will take responsibility during spring term for the recruitment and receipt of applications for new student members to the Hearings Board. The Office of Student Conduct and Community Standards and Office of Student Advocacy will ensure that the nominated students are representative of the diversity of the University of Oregon. Particular efforts will be made to recruit law students.~~

~~—(b) A review committee consisting of one member of the Office of Student Conduct and Community Standards, one member of the Office of Student Advocacy, one student from the Residence Hall Association, and two members of the ASUO, one of which will be the University Affairs Director, will review the applications for the Hearings Board. The review committee will make every attempt to ensure that the nominated students are representative of the diversity of the applicant pool.~~

~~—(c) Preference will be given to up to 5 recommended students wishing to return to the Hearings Board for reappointment.~~

~~—(d) Names of nominated students will be forwarded to ASUO for formal nomination to the University President pursuant to (1)(a).~~

~~—(e) New student members of the Hearings Board, once appointed by the President, will be trained by the Office of Student Conduct and Community Standards and the Office of Student Advocacy before the end of the academic year in which they are appointed.~~

~~—(f) New student members shall be ready and available to assume responsibilities for the Hearings Panel at the beginning of the next academic year after they are appointed.~~

~~(3) Student Conduct Hearings Panel (Hearings Panel). Student Conduct Code panel hearings, pursuant to OAR571-021-0205, are heard by a panel on which officers of instruction, officers of administration and students are represented, drawn from members of the Hearings Board. A Hearings Panel cannot proceed with fewer than four members present.~~

~~—(a) A party may challenge a Hearings Panel member or the chair on the ground of personal bias. Any member who is incapable of rendering a fair and objective decision based solely upon the facts, information and arguments presented during the hearing with no influence based on the member's familiarity with people, facts or the situation arising from outside the hearing is disqualified from hearing the case.~~

~~—(b) If a Hearings Panel member is disqualified, the chair of the Hearings Panel will determine whether to fill the position by appointment of another member of the Board or to proceed with fewer members so long as the Hearings Panel consists of no fewer than four qualified members.~~

## 571-021-0165 University Appeals Board

**[The University Appeals Board is one option that the student has to have their case reviewed. This section of the code outlines how the members of the Appeals Board are chosen.]**

(1) The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. As set forth in OAR571-021-0250, the Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions of all ~~Hearings Panel~~ administrative conferences in cases except those involving ~~S~~sexual ~~m~~Misconduct which shall be appealed directly to the Vice President for Student Life or designee.

(2) Membership. The Appeals Board shall consist of three faculty members, recommended by the Committee on Committees of the University Senate, and three student members, recommended by the ASUO. Board members shall be appointed by the President and serve for one-year terms. They may be reappointed, but no member may serve for more than two consecutive terms. Temporary members may be appointed to assure full Appeals Board membership during summer session or at such other times as are necessary. The President shall designate one of the members as pro tem chair of the Appeals Board.

(3) The Appeals Board will elect its permanent chair at its first meeting. A quorum shall consist of two students and two faculty members. The Appeals Board shall establish its own rules of procedure.

## 571-021-0200 Conduct Procedures

**[This section of the code describes the process that the Student Conduct office adheres to following an alleged breach in the code.]**

(1) Complaint. Any Member of the University Community may file a complaint against a Student for a violation of the Student Conduct Code. A complaint shall be prepared in writing and directed to the Director of Student Conduct and Community Standards. Any complaint should be submitted as soon as possible after the alleged violation takes place, preferably within one year. Jurisdiction is determined pursuant to OAR571-021-0115. The longer one waits to file a complaint the less information is likely to be available for the hearing, therefore it is important to file a complaint as soon as possible. Once the Office of Community Standards receives a complaint, the Office has six months to send written notice to the accused Student of the complaint.

(2) Notice. Upon receiving a complaint or notice that a Student may have violated the Student Conduct Code, the Director of Student Conduct and Community Standards shall serve a written notice upon the Student, either by electronic mail or by mailing to the latest address of the Student on file at the Office of the Registrar of the University, or, if necessary, by registered or certified mail or by personal service. Such notice shall inform the student of:

- (a) The alleged Code violation;
- (b) The opportunity for the student to meet with the Director for purposes of discussing the options for disposition of the case;
- (c) The Student's right to assistance. At an administrative conference with the Director, ~~or a hearing by a Hearings Panel~~ or before the Appeals Board, or the Vice President of Student Life, if applicable, a Student may, but need not represent his or her own interests, or be assisted by someone including but not limited to one of the following representatives:

- (A) The Office of Student Advocacy;
- (B) Another Student;

(C) A member of the faculty or administration;

(D) A member of the Oregon Bar.

(d) The requirement to respond within 147 calendar days, ~~excluding breaks between terms or when the student is not registered,~~ to arrange a meeting with the hearing officer. The hearing officer will proceed as provided in (3)(b) if the Student does not arrange to meet or fails to meet with the hearing officer as arranged.

(3) Response.

~~(a) After proper service of written notice as provided in (2), the Student may arrange to meet with the Director for the purpose of selecting an option for the disposition of the case, either through conference with the Director or staff or through hearing by a Hearings Panel pursuant to OAR571-021-0210.~~

~~(b) If after receiving notice, pursuant to this rule, the Student does not arrange to meet with the Director to select an option for disposition of the case within 147 days, excluding breaks between quarters or when the student is not registered, or if the Student arranges to meet with the Director to select an option to dispose of the case but does not attend such a meeting, the Director of Student Conduct and Community Standards may take any of the actions specified in OAR571-021-0205 or OAR571-021-0210 for disposition of the case without consultation with or agreement by the Student.~~

~~(c) Immediate Referral to Hearings Panel. If the Director of Student Conduct and Community Standards finds that under the circumstances of the case, an immediate referral to a Hearings Panel would be in the best interest of the University or the best interest of the Student, the Director of Student Conduct and Community Standards may make such referral before service of notice upon the student. In such case, the letter sent to the student shall notify the student of the referral to the Hearings Panel and contain the information required in (2)(c).~~

~~(4) Conference and Hearing Board Referrals~~

~~(a) The Director of Student Conduct and Community Standards or a designee will conduct a preliminary review to determine whether the alleged misconduct might result in negative notation on transcript, expulsion or suspension from the University. Students not subject to suspension, expulsion or negative notation will be entitled to an administrative disciplinary conference with the Director of Student Conduct and Community Standards pursuant to OAR571-021-0205 or a hearing with a Hearings Panel pursuant to OAR571-021-0210. Students who are subject to suspension, expulsion or negative notation will be entitled to a hearing before a Hearings Panel pursuant to OAR571-021-0210.~~

~~(b) Students referred for a hearing by the Director of Student Conduct and Community Standards may elect to have their cases resolved in accordance with OAR571-021-0210. Such an election must be in writing, affirming that the Student has had an opportunity to consult with an adviser of their choosing, is aware a hearing is being waived and that the full range of sanctions may be imposed, including negative notation on transcript, suspension or expulsion or from the University.~~

(5) With the consent of an Accused Student, the Director of Student Conduct and Community Standards may defer proceedings for alleged minor violations of this Code for a period not to exceed ninety days. Pending complaints may be withdrawn thereafter at the discretion of the Director of Student Conduct and Community Standards or designee.

### **571-021-0205 Administrative Conferences**

**[This section of the code outlines the rights that an accused student holds during the Conduct procedures, ~~u~~including rights relating to the student's mental capacity and any mental disorder the from which the student may suffer.]**

(1) Complainants, witnesses and accused students may have an advisor, as defined at 571-021-0200(2)(c), present during any interviews with the Director of Student Conduct and Community Standards, or designee, and any other disciplinary proceeding.

~~(21)~~ Students accused of violations ~~that may result in penalties less severe than suspension, expulsion or negative notation may choose will have~~ an administrative conference with the Director of Student Conduct and Community Standards, or designee. The following procedural protections are provided to accused students in disciplinary conferences:

(a) Reasonable access to the case file prior to and during the conference, except to the extent access to such material is prohibited by law. The case file may contain materials that are considered “education records” pursuant to the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended and personal notes of University staff members and complainants. Access to these materials may be prohibited by law. Otherwise, to the extent allowed by law, copies of the case file will be provided upon request.

(b) An opportunity to respond to all information provided and to ask the Director or designee hearing the case to contact relevant and necessary witnesses.

~~—(c) The right to be accompanied and assisted by an adviser~~

~~(c)~~ The right to have the case referred outside the Office of Community Standards if the Student can articulate a reasonable basis from which to conclude that the Office of Community Standards is biased for some reason that would prevent the student from receiving a fair hearing by the office. Such cases are referred to the Vice President for Student Affairs-Life or his or her designee.

~~(23)~~ In cases where the Director of Student Conduct and Community Standards concludes that a Student accused of any offense under the Student Conduct Code lacks the mental capacity to respond to the complaint, the Director shall stay the proceeding until such time that the Director concludes that the Student may adequately respond. A stay granted pursuant to this section shall not in any manner preclude a proceeding for medical leave under OAR Chapter 571, Division 23. If the student has been accused of Academic Misconduct, no academic sanction may be imposed during a stay granted pursuant to this section, but the faculty member for the coursework out of which the complaint of Academic Misconduct arose shall request the Registrar to assign a grade of “I” until the disciplinary proceeding has been completed.

~~(34)~~ No sanctions shall be imposed against a Student who acknowledges engaging in the specific conduct alleged and who submits a written statement from a Student Health Center psychiatrist or a Counseling Center psychologist stating that, as a result of mental disorder at the time of the offense, the Student did not appreciate the wrongfulness of the conduct or could not conform his or her behavior to the requirements of the Code. The Student may submit any other supplemental information pertinent to his or her mental condition to the Director of Student Conduct and Community Standards. If, based upon all information received, the Director decides that the conduct of the Student resulted from mental disorder, the Director shall seek professional assistance and advice, and, if appropriate and legally authorized, consult with the Student’s parent or guardian or take other measures to assure a fair disposition of the case. If the Student has been accused of Academic Misconduct, the faculty member for the coursework in which the Academic Misconduct took place shall assign an appropriate grade.

#### **OAR571-021-0210**

#### **University Hearings Panel Hearings**

~~If a matter cannot be resolved by an administrative conference, if selected or required pursuant to OAR571-021-0200, resolution will be sought through a hearing before a Hearings Panel. As with all other aspects of the Student Conduct Code, the hearing is primarily for educational purposes. The hearing is an information gathering process not a criminal proceeding, trial, or litigation.~~

~~(1) All complaints shall be presented to the Accused Student in written form. Because the University community values prompt disposition of student conduct matters, a time shall be set for a hearing not~~

less than twenty nor more than thirty calendar days after the Student has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the Director of Student Conduct and Community Standards or the Hearings Panel.

~~(2) The Hearings Panel will select a chair from among the returning members of the hearings board. The chair shall preside at the hearing. The chair may participate in Hearings Panel deliberations and discussions but shall not vote.~~

~~(3) The University community values personal responsibility and accountability as an important part of its core educational process. In accord with this value, in a hearing the Accused Student and any Complainant are responsible for responding to inquiries from the Hearings Panel. However, an Accused Student and a Complainant, if any, may each be assisted by one advisor as identified in OAR571-021-0200. The following rules and standards pertain to any such advisor:~~

~~— (a) The advisor may, but need not, be an attorney;~~

~~— (b) A Student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor;~~

~~— (c) A Student planning to invite an advisor to a hearing must inform both the Director of Student Conduct and Community Standards and the Hearings Panel of this intention at least seven calendar days prior to the hearing. If a matter includes both an Accused Student and a Complainant, the Director shall promptly notify the other Student of the first Student's intent to invite an advisor. The other Student shall be afforded an equal right to invite an advisor even if doing so results in the Director and the Hearings Panel receiving less than seven days prior notice.~~

~~— (d) Advice provided by an advisor may include advising the student how to answer any question posed by the Hearings Panel;~~

~~— (e) In order to preserve the educational tone of the hearing and to avoid an adversarial environment, advisors are generally not permitted to speak or participate directly in any hearing, except in one or more of the following specific ways:~~

~~— (A) An advisor may provide a written opening summary or statement.~~

~~— (B) An advisor may provide an oral closing summary or statement.~~

~~— (C) An advisor may be allotted a limited time period to ask one or more questions of the Student the advisor is advising and to allow the Student to respond. Questions asked by an advisor are in addition to questions asked by the Hearings Panel.~~

~~— (D) An advisor may submit to the Hearings Panel in writing any suggested questions for the Hearings Panel to ask of any other participant who is giving information at the hearing.~~

~~— (E) The Hearings Panel may permit advisors to question a person providing information at the hearing, if both Complainant and Accused Student independently so request at the beginning of the hearing.~~

~~— (f) The Hearings Panel will automatically add the name of any person filling the advisor function at a hearing to a list of Hearings Panel Advisors who may be available for other students who wish to consult with an advisor.~~

~~— (g) An advisor should act in accordance with the standards and values of the University community. If an advisor's conduct in a hearing is judged to merit disqualification, the Hearings Panel has the authority to remove a person's name from the Hearings Panel Advisors list and to disqualify that person from serving as an advisor in future hearings.~~

~~(4) A Student whose ability to present their own information is hindered either by a language barrier, a documented disability or other serious difficulty with public, oral presentation shall have the right to petition the Hearings Panel to permit someone to speak on the Student's behalf at the formal hearing. Such a spokesperson may be a friend or family member, a professionally-trained translator or interpreter or a member of the University community but may not be an attorney or any other professional receiving a fee for representing or advising the student.~~

(5) The Hearings Panel, in its sole discretion, has responsibility and authority for deciding the length of time a party is allowed for closing statement or for questioning, if any, by advisors and at what point in the hearing these should occur.

(6) The Director of Student Conduct and Community Standards or designee shall give an Accused Student notice of the hearing date and the specific complaints against them at least 14 calendar days in advance of the hearing date. Notice shall be by personal delivery or by certified mail to the last address provided by the Accused Student to the university.

(7) An Accused Student shall be accorded reasonable access to the case file, but shall not have access to material the disclosure of which is prohibited by law. Upon request to the Director of Student Conduct and Community Standards, an Accused Student will be provided copies of the case file, except to the extent prohibited by law. The original case file will be retained in the Office of the Director of Community Standards.

(8) The chair of the Hearings Panel may require attendance of relevant witnesses after consultation with the Director of Student Conduct and Community Standards. Notice of required attendance must be personally delivered or sent by certified mail. University Students and employees are expected to comply with these requests, unless compliance would result in significant and unavoidable personal hardship, or substantial interference with normal University activities, as determined by the chair of the Hearings Panel, in consultation with the Director of Student Conduct and Community Standards. In addition, in any formal hearing, either the University or the Student may request the University General Counsel to issue a subpoena pursuant to ORS 183.445.

(9) The Hearings Panel will consider an Accused Student who fails to appear after proper notice to have pleaded "not responsible" to the complaints pending against them. A hearing may be conducted without the Accused Student present, if necessary.

(10) All hearings conducted under the authority of the Student Conduct Code are to be closed unless a student has waived in a signed, written and dated document any restrictions on disclosure of documents, exhibits, written statements, interview notes, photographs, or other materials in the Student Conduct case file or in other education records which could be offered, admitted, identified, described, referred to, or generated in the course of the hearing.

—(a) A waiver of access to education records shall apply to the entire hearing, unless otherwise agreed to by the University and a student Complainant, if there is one, and the Accused Student.

—(b) The chair of the Hearings Panel shall close the hearing unless a waiver is provided to the Director of Student Conduct and Community Standards prior to the beginning of the hearing. Only participants in the hearing shall be allowed to attend a closed hearing. Participants include but are not limited to, the Hearings Panel, the Director of Student Conduct and Community Standards, the Accused Student and the Accused Student's advisor, interpreter or translator, and appropriate University officials.

—(c) With regards to sexual assault as used in 20 U.S.C. § 1092(f)(8)(B)(iv)(I) (2000), a Complainant and an Accused Student are entitled to the same opportunities to have others present during a campus disciplinary proceeding. A Complainant who alleges sexual assault may have an equivalent number of advisors present during the hearing as the Accused Student. If an Accused Student does not have an advisor, a Complainant alleging sexual assault may still have an advisor present during the hearing. A Complainant who alleges sexual assault also has the right to be present during the portion of hearing when information is being presented.

—(d) Except as otherwise required, the chair of the Hearings Panel may exclude persons from the hearing as necessary to maintain order.

—(e) The Hearings Panel may, on its own initiative, or at the request of a participant, exclude from an otherwise open hearing a prospective witness or witnesses, other than the Complainant and the Accused Student, during the statements of other witnesses.

(11) The chair shall exercise control over the proceedings to avoid needless consumption of time and to achieve completion of the hearing in a timely manner. Any person, including an Accused Student or a

Complainant, who disrupts a hearing may be excluded by the Chair.

~~(12) Procedural questions are subject to final determination by the chair of the Hearings Panel.~~

~~(13) Witnesses.~~

~~—(a) Witnesses shall be required to affirm that their testimony is truthful. Witnesses may be subject to disciplinary sanctions or perjury for knowingly providing a false statement.~~

~~—(b) Questioning witnesses.~~

~~—(A) Accused Students (not their advisors) and Complainants, may ask relevant questions of witnesses.~~

~~—(B) Hearings Panel members may ask questions of the parties and witnesses.~~

~~(14) Information and evidence.~~

~~—(a) The Oregon Evidence Code does not apply except that rules of privilege recognized by Oregon law shall apply.~~

~~—(b) Irrelevant, immaterial or unduly repetitious material shall be excluded. All other information of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.~~

~~—(c) Information may be received in written or oral form.~~

~~—(d) The Hearings Panel may also take judicial notice of matters which would be within the general experience of University students and faculty members.~~

~~—(e) Information in hearing alleging Sexual Misconduct. Information about the sexual behavior of a student prior to or subsequent to an alleged~~

~~Sexual Misconduct incident is not admissible in a hearing unless the following conditions apply:~~

~~—(A) A description of the information regarding specific instances of sexual behavior, whether of the Complainant or of the Accused Student, is submitted to the Hearings Panel chair no fewer than seven days prior to the hearing (unless the information is otherwise deemed essential by the Hearings Panel chair)~~

~~—(B) The Student whose sexual behavior is at issue has had an opportunity to provide a written response; and~~

~~—(C) The Hearings Panel chair finds that the probative value of the information outweighs the danger of undue prejudice to the student.~~

~~(15) Hearings shall be tape recorded or transcribed.~~

~~(16) Allegations of violations of the Student Conduct Code must be established by a preponderance of evidence except a student may be expelled only based on clear and convincing evidence.~~

~~—(a) The Director shall be responsible for investigating and presenting the case to the Hearings Panel and ensuring that all relevant information is presented on both sides.~~

~~—(b) For all violations of the Student Conduct Code, it is the complaining party's burden to prove the case by a preponderance of information except as stated above.~~

~~(17) A Complainant, an Accused Student, or a witness may identify concerns about personal safety, well-being or fear of confrontation with another hearing participant to the Director of Student Conduct and Community Standards. The Director will determine what, if any, accommodations are appropriate. Examples of accommodations include, but are not limited to, separate facilities, visual screens, telephone or remote video participation or written submissions.~~

~~—(a) If another participant objects to the accommodation, the participant shall submit written objections to the chair of the Hearings Panel. Written objections should include information describing how the accommodations proposed will affect the fairness of the hearing.~~

~~—(b) The Hearings Panel will decide whether to provide the proposed accommodation.~~

~~—(c) The Hearings Panel will not consider a request for accommodation or the granting or denial of an accommodation in concluding if an Accused Student violated the Student Conduct Code.~~

## 571-021-0220 Alternative Dispute Resolution

**Consistent with the primary mission of the Code to establish community standards and procedures that promote an environment conducive to learning by upholding academic standards and by respecting community members, alternative dispute resolution provides an opportunity for individuals affected by violations or alleged violations of this Code to resolve disciplinary matters among themselves, with or without findings of responsibility. Students who participate in a method of alternative dispute resolution and successfully fulfill their obligations may, upon completion of their obligations, have their student conduct record regarding the matter expunged.**

(1) Mediation. Mediation is encouraged as an alternative means to resolve allegations of Student Conduct Code violations, [where appropriate](#). The Director of Student Conduct and Community Standards will inform Complainants and Accused Students about the availability of mediation resources. The Director, in the exercise of the Director's sole discretion, may, except in cases of alleged Academic [and Sexual](#) Misconduct, decline to process a complaint until the parties make a reasonable attempt to achieve a mediated resolution.

(a) To be binding under this Code, any mediated resolution must be approved by the Director of Student Conduct and Community Standards. Any agreement will be enforced by the Office of Student Conduct and Community Standards.

(b) Procedures for Alternative Dispute Resolution. Students wishing to pursue mediation shall notify the Director of Student Conduct and Community Standards within fourteen calendar days of receiving written notice of the violation pursuant to OAR571-021-0200.

(c) The Director of Student Conduct and Community Standards may determine if an Accused Student must acknowledge responsibility as a condition of the Director's approval of a mediation option. If the Director requires an Accused Student to acknowledge responsibility as a condition to approving the mediation, the Director will not proceed until the Accused Student has provided the Director with that acknowledgement.

(d) The Director of Student Conduct will determine whether others affected by the alleged violation are willing to participate in mediation. Parties agreeing to mediation must sign a waiver allowing the Director to receive information from the mediator regarding the progress of the mediation.

(e) Once the necessary parties agree, the Director of Student Conduct and Community Standards will approve a mediator and set a date for a report from the mediator regarding progress. If the Director, in the Director's sole discretion, determines that mediation is unlikely to be successful, the Director may inform the necessary parties and initiate other procedures.

(2) Restorative Justice. Restorative Justice serves primarily as a diversion program for Accused Students who have acknowledged responsibility for a Code violation and who wish to remedy the effects of the violation.

(a) The Director of Student Conduct and Community Standards will consider approving Restorative Justice in the following circumstances:

(A) The Accused Student acknowledges responsibility for a the Code violation;

(B) There are clearly identifiable negative impacts on either individuals or the community resulting from the violation; and

(C) The Accused Student and those impacted by the incident agree to participate in Restorative Justice.

(b) A Restorative Justice outcome shall not be binding unless approved by the Director of Student Conduct and Community Standards. An agreement reached through Restorative Justice will be enforced by the Office of Student Conduct and Community Standards.

(3) The Director of Student Conduct and Community Standards may initiate procedures to make a determination of responsibility or, in the Director's discretion, to proceed pursuant to OAR571-021-

0240 if an Accused Student who participates in alternative dispute resolution fails to fulfill an obligation or otherwise fails to comply with the approved resolution.

(4) Upon timely completion of a student's obligation arising from alternative dispute resolution, a student may provide to the Director of Student Conduct and Community Standards documentation of completion. If the Director of Student Conduct and Community Standards concludes the student fulfilled the student's obligation in a timely fashion, Director of Student Conduct and Community Standards will remove information regarding the violation from the student's record.

### **571-021-0230 Emergency Action**

**[This section of the code describes the rights of the Director of Student Conduct and Community Standards to take Emergency action regarding the accused student when it is necessary to secure the health or safety of any persons.]**

(1) The Director of Student Conduct and Community Standards or his or her designee may take emergency action regarding a Student when immediately necessary to secure the health or safety of any persons and there is an alleged violation of the Student Conduct Code.

(2) Emergency Action includes, but is not limited to:

(a) Immediate withdrawal of the Student from the University;

(b) Restrictions on the Student's presence on University Premises or at University Sponsored Activities.

(3) The Director of Student Conduct and Community Standards may request that the Student secure a medical and psychological evaluation through the Student Health Center or at another facility at the Student's own expense. The evaluation may be used to determine the appropriateness of withdrawing the emergency action.

(4) When the emergency action takes place, the Director of Student Conduct and Community Standards or designee will:

(a) Inform the Student of the reason for the emergency action;

(b) Give the Student the opportunity to explain why emergency action need not be taken;

(c) Inform the Student that a preliminary hearing will take place according to Paragraph (5) and that the Student will be informed of its time, place, and date; and

(d) Inform the Student of the possible restrictions that may be imposed prior to [a panel hearing an administrative conference](#).

(5) The preliminary hearing shall take place within two business days of the emergency action. At this hearing the Student shall have a full opportunity to demonstrate to the Director of Conduct and Community Standards that emergency action is not necessary pursuant to Paragraph (1). The Student may be represented by a student advocate or other counsel.

(a) Based on the reasonable evaluation of the information presented at the preliminary hearing, the Director of Student Conduct and Community Standards shall notify the Student within 24 hours of the decision to:

(A) Dissolve the emergency action and take no further action;

(B) Dissolve the emergency action but proceed to [an administrative -conference full hearing regarding the Student's conduct pursuant to OAR571-021-0210 of the Student Conduct Code](#); or

(C) Sustain or modify the emergency action until such time as [a Hearings Panel may hold a hearing regarding the Student's conduct a resolution is reached following an administrative conference](#).

(6) An emergency action shall be reviewed by Vice President for Student [AffairsLife](#) or his or her designee at the request of the Student no sooner than the next working day after the preliminary hearing. The review shall provide an opportunity for the Student to explain why an emergency action need no longer be imposed. Subsequent review of the same emergency action may be requested no

more frequently than every ten days.

~~(7) A Hearings Panel hearing subsequent to an emergency action shall occur no sooner than fourteen days after the emergency action is imposed, and shall be administered pursuant to OAR571-021-0210 of this Code. If the Director for Student Conduct and Community Standards agrees, the Student may waive the fourteen-day notice requirement in order to expedite the hearings process.~~

~~(8) If emergency restrictions on a Student's housing or enrollment are removed, the Student will not be assessed any fees for reinstatement.~~

#### **571-021-0240 Imposition of Sanctions, Adjudication of Contempt and Failure to Complete Assigned Sanctions**

**[This section of the code designates who has authority to impose a sanction, and outlines the responsibility of the student regarding the sanctions.]**

(1) A University Official, ~~Hearings Panel~~ or Student Organization that determines that an Accused Student violated the Student Conduct Code may impose sanctions authorized by this Code unless otherwise expressly limited. Sanctions are subject to appeal pursuant to OAR571-021-0250.

(2) A ~~chair of a Hearings Panel or a~~ University Official responsible for making a determination if a student has violated this Code may declare a Student participant in contempt of adjudicative proceedings pursuant to OAR571-021-0120(1)(i) and impose sanctions without complying with the procedures otherwise required in this Code. Adjudication of contempt and sanctions imposed are subject to appeal pursuant to OAR571-021-0250. Imposition of sanction and the circumstances that gave rise to it shall be reported to the Director of Conduct and Community Standards.

(3) Failure to complete assigned sanctions. The University will use the procedures established by this section to enforce the timely completion of disciplinary sanctions issued under the Student Conduct Code.

(a) A Student who is found responsible for a Student Conduct Code violation and who receives a sanction will be informed orally by the Office of Student Conduct and Community Standards of the consequences of failing to complete the sanction. The Office of Student Conduct and Community Standards will also inform the student in writing of the consequences of failing to complete the sanction as part of the decision letter sent to the Student.

(b) If a Student fails to complete the disciplinary sanction by the assigned deadline, the Office of Student Conduct and Community Standards will send the Student a letter that states:

(A) The Student has five class days after the assigned deadline to provide verification to the Office of Student Conduct and Community Standards that the assigned sanction has been completed or the Student's record ability to register for classes, drop classes, or change grade options will be placed on hold;

(B) Once the Student's record is on hold, the hold will not be removed until the Office of Student Conduct and Community Standards has received verification that the Student has completed the sanction; and

(C) The Student is responsible for ensuring that the Office of Student Conduct and Community Standards receives verification of completion of the sanction.

(c) When a hold is placed on a Student's record, the Office of Student Conduct and Community Standards will inform the Student in a letter that the hold has been placed, the consequences of the hold, and the actions required to have the hold removed.

(d) The hold will be removed immediately once the Student provides verification of completion of the sanction.

(e) A Student who is unable to register because the student has not completed a sanction may seek a waiver from the Office of Student Conduct and Community Standards. The Office of Student Conduct

and Community Standards will grant a waiver, allowing the student to register, provided the Student agrees the Student's registration may be cancelled immediately and the hold reinstated if the Student has not completed the sanction by a deadline set by the Office of Student Conduct and Community Standards, in its sole discretion.

## 571-021-0250 Appeals

**The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. As set forth in OAR571-021-0165 this Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions ~~of a Hearings Panel~~ issued following an administrative conference.**

(1) A decision ~~reached by the Hearings Panel~~ through an administrative conference may be appealed by the Accused Student or Complainant(s) ~~to the Appeals Board~~ within fourteen calendar days of the decision. Such appeals shall be in writing, state the basis for the appeal and be delivered to the Office of Student Conduct and Community Standards. All appeals of cases involving sexual misconduct will be heard directly and exclusively by the Vice President for Student Life or designee; all other appeals will be heard by the Appeals Board.

(a) An Accused Student who does not attend the administrative conference hearing of the Hearings Panel may appeal only to show with direct information that the Accused Student did not receive notice of the conference hearing.

(b) A Complainant(s) who fails to attend any requested meetings with the Director the hearing of the Hearings Panel or fails to present information in a format approved by the Director Hearings Panel may appeal only to show with direct information that the Complainant did not receive notice of the hearing.

(2) Except as the Appeals Board or the Vice President for Student Life determines necessary to explain the basis of new information, an appeal is limited to a review of the verbatim record of the Hearings Panel administrative conference, -and supporting documents:

(a) To determine if the Hearings Panel hearing administrative conference, was conducted fairly in light of the complaint made and information presented and in conformity with procedures required in this Code, giving the Complainant a reasonable opportunity to present information, and giving the Accused Student reasonable notice and an opportunity to prepare and to respond to the allegations. A deviation from procedures required by this Code will not be a basis for sustaining an appeal unless significant prejudice results;

(b) To determine whether the decision reached regarding the Accused Student was based on substantial information, that is, whether there were facts that, if believed by the Hearings Panel Director or designee were sufficient to establish that a violation of the Code occurred;

(c) To determine whether the sanction(s) imposed were commensurate with violation;

(d) To consider new information sufficient to alter a decision or other relevant facts not brought out in the original hearing only if such information or facts were not known to the person appealing at the time of the hearing.

(3) No decision ~~of a Hearings Panel~~, may be overruled by the Appeals Board except through an affirmative vote of a majority of the Appeals Board members present. If the Appeals Board or the Vice President for Student Life overrules a decision in whole or in part, it may:

(a) Modify the decision or sanction; or

(b) Remand for further proceeding.

~~(4) No appeal shall be allowed unless the party appealing cites specifically to the hearing record and states with specificity the grounds under which the appeal shall be allowed.~~

~~(5) The University Appeals Board decision may be appealed to the extent provided in ORS Chapter 183.~~



UNIVERSITY OF OREGON

## Seconded Motion from ASAC

Regarding proposed changes to the Student Conduct Code  
(proposed new changes)

**Board of Trustees of the University of Oregon**

**Resolution: Adoption of Proposed Changes to Student Conduct Code (II)**

Whereas, UO Policy 571-021-0100 stipulates that the primary mission of the Student Conduct Code is to set forth the community standards and procedures necessary to maintain and protect an environment conducive to learning;

Whereas, UO Policy 571-021-0100(2) notes that a corollary mission of the Student Conduct Code is to teach students to live and act responsibly in a community setting, with respect for the rights of other students and members of that community...and to encourage the development of good decision-making and personal integrity;

Whereas, to be effective, the Student Conduct Code must be updated and kept current, and must be in line with state law, federal law and best practices;

Whereas, certain portions of the UO's Student Conduct Code require such updates to reflect best practices and ensure compliance with federal guidance concerning timelines and procedural fairness, as well as updates to reflect current state law;

Whereas, the Division of Student Life recommends permanent changes be made to the Code to ensure compliance with state and federal laws, to reflect best practices in the effort to prevent sexual assault, and to update the Code with respect to current governance, practices and naming conventions (see Exhibit A attached hereto for a red-lined version of proposed changes and Exhibit B for a clean version of proposed change with comments);

Whereas, the Policy on the Retention and Delegation of Authority stipulates that the Board has retained authority to approve any and all changes regarding student conduct policies;

Whereas, ORS 352.029 provides that the Board manages the affairs of the university by exercising and carrying out all of the powers, rights and duties that are expressly conferred upon the board by law, or that are implied by law or are incident to such powers, rights and duties; and

Whereas, the Academic and Student Affairs Committee has referred this matter to the full Board of Trustees as a seconded motion, recommending passage;

NOW, THEREFORE, the Board of Trustees of the University of Oregon hereby adopts the proposed changes to the Student Conduct Code, attached hereto in Exhibit A as permanent changes.

*--Vote recorded on following page--*

Trustee	Yes	No
Ballmer		
Bragdon		
Chapa		
Colas		
Curry		
Ford		
Gary		
Gonyea		
Kari		
Lillis		
Ralph		
Schlegel		
Wilcox		
Willcox		

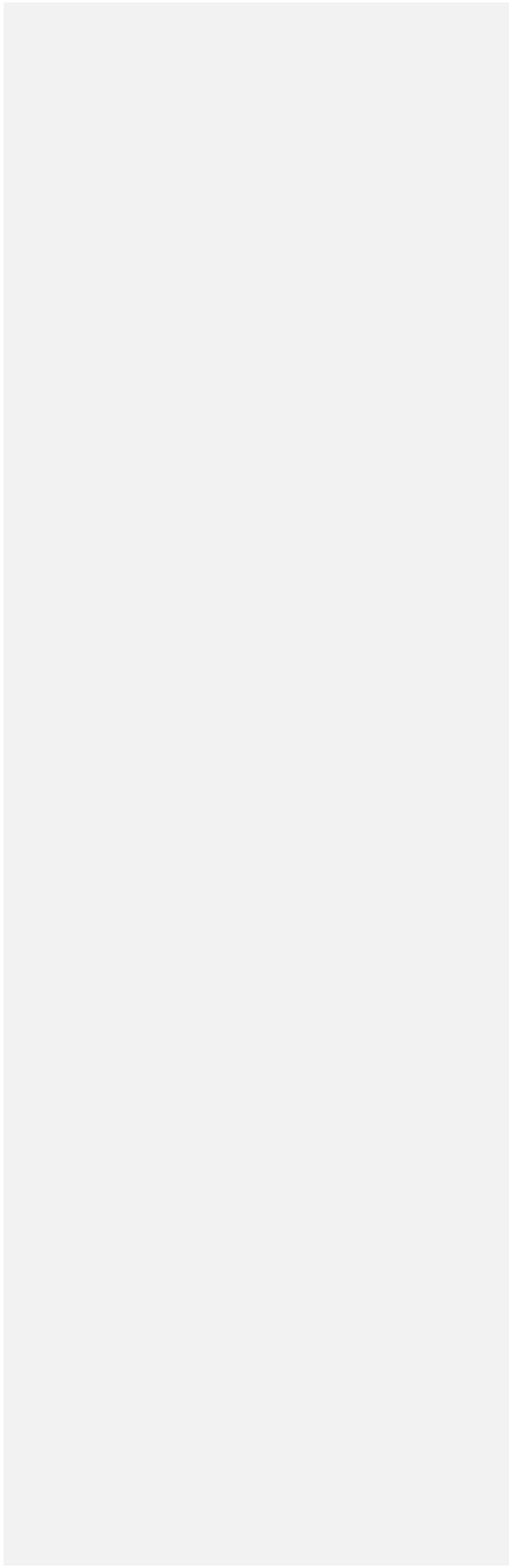
Dated: \_\_\_\_\_ of \_\_\_\_\_, 2015.

Initials: \_\_\_\_\_

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**EXHIBIT A: Red-lined proposed new changes**



## STUDENT CONDUCT CODE (Draft 5/24/2015)

All revisions to Student Conduct Code procedures, including but not limited to jurisdictional revisions, shall apply retroactively to pending Student Conduct complaints, filed on or after September 11, 2014

**Commented [rjr1]:** Added upon advice of General Counsel to ensure that this revised code applies in all cases currently being processed that were filed after the Board of Trustees made temporary changes on September 11, 2014.

### ~~571-021-0100~~ Section 1: Student Conduct Policies

**Commented [rjr2]:** All references to Oregon Revised Statutes are removed and a new numbering system has been adopted.

**Commented [SW3]:** Added to be consistent with practice

#### I. Mission

1. The primary mission of the Student Conduct Code is to set forth the community standards and procedures necessary to maintain and protect an environment conducive to learning and in keeping with the educational objectives of the University of Oregon. Founded upon the principle of freedom of thought and expression, an environment conducive to learning is one that preserves the freedom to learn -- where academic standards are strictly upheld and where the rights, safety, dignity and worth of every individual are respected.
2. Learning is a process defined by the exchange of ideas and the advancement of knowledge. As such, learning entails a community of scholars united by their participation in, and commitment to, intellectual exchange. The University is, first and foremost such a community. Learning also involves reflecting on decisions and improving decision-making in the future. By establishing the standards of this community, the Student Conduct Code serves not just as a disciplinary system, but also as a part of the educational system. Hence, a corollary mission of the Student Conduct Code is to teach students to live and act responsibly in a community setting, with respect for the rights of other students and members of that community, and for the property, common resources, code of conduct, and laws associated with that community, and to encourage the development of good decision-making and personal integrity.
3. Students are simultaneously members of the University community and the broader community (e.g. city, state, nation, and world). The Student Conduct Code, and the processes of its administration and enforcement, is directed specifically toward maintaining the standards of the University community. Within its jurisdiction the University may impose disciplinary sanctions against students or student organizations when their conduct materially interferes with the educational objectives of the University or university community member.

## 571-021-0105

### II. Definitions

~~{This section of the code outlines the definitions of words commonly used in the code.}~~

Commented [SW4]: Extraneous language

For purposes of the Student Conduct Code, ~~571-021-0100 et seq.:~~

(1) “Academic Misconduct” means the violation of university policies involving academic integrity. Examples include, but are not limited to:

(a) Intentional tampering with grades, resubmitting assignments for more than one class without the permission of the professor; and

(b) Intentionally taking part in obtaining or distributing any part of a test that has not been administered;

(c) Cheating, as defined ~~in 571-021-0105(3);~~ [in this code](#)

(d) Plagiarism, as defined ~~in 571-021-0105(26);~~ [in this code](#)

(e) Knowingly furnishing false information to a University Official; and

(f) Fabrication, as defined ~~in 571-021-0105(14);~~ [in this code](#)

(2) “Accused Student” means any student accused of violating the Student Conduct Code.

(3) “Cheating” means any act of deception by which a student misrepresents or misleadingly demonstrates that ~~he or she~~ [the student](#) has mastered information on an academic exercise ~~that he or she~~ [that](#) the student has not mastered. Examples include but are not limited to:

(a) Giving or receiving unauthorized help in an academic exercise;

(b) Use of sources or resources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;

(c) Acquisition, without permission, of tests or other academic material belonging to a member of the University faculty or staff; and

(d) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

(4) “Community Standards Administrator” means the University official, as designated on a case-by-case basis by the Director of Student Conduct and Community Standards, authorized to impose sanctions upon any student found to have violated the Student Conduct Code.

(5) “Community Standards/ [Student Conduct](#) Committee” means the Committee established pursuant to ~~571-021-0110~~ [this Code](#), comprised of persons appointed by the President with the responsibility for formulating, approving or recommending changes related to the Student Conduct Program.

Commented [SW5]: Removes gendered pronouns

Commented [SW6]: Removes gendered pronouns

(6) “Complainant” means any person who submits a complaint alleging that a student violated the Student Conduct Code. The Complainant need not be a person who was the target or victim of the alleged violation.

(7) “Contacting” has its common meaning. It includes, but is not limited to, communicating with or remaining in the physical presence of the other person.

(8) “Contact of a Sexual Nature” for purposes of Sexual Misconduct in the Student Conduct Code means ~~the touching of the genitalia, anus, buttocks or breasts of a person or causing such person to touch the genitalia, anus, buttocks or breasts of another.~~

(9) “Contempt” means disregard of, or disobedience to, the rules or orders of any ~~tribunal~~ [process](#) under this Code or an interruption of its proceedings by disorderly behavior or insolent

Commented [SW7]: In line with current name of the committee

Commented [SW8]: The Student Conduct Process is based on an educational and developmental model for an administrative process, rather than an adversarial model based on the criminal process. This language was changed to make the code language more consistent with our practice.

language in a way or place that disturbs the proceedings or ignores the authority of the tribunal.  
 (10) “Director of Student Conduct and Community Standards” is the person designated by the University Senate, Board of Trustees and University President or designee to be responsible for the administration of the Student Code.

(11) “Drug” means a controlled substance or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C.811 to 812 or as defined in ORS475.005 or modified in ORS475.035.

(12) “Explicit Consent” for purposes of Sexual Misconduct in the Student Conduct Code means voluntary, non-coerced and clear communication indicating a willingness to engage in a particular act. “Explicit consent” includes an affirmative verbal response or voluntary acts unmistakable in their meaning.

(13) “Fabrication” means the intentional use of information that the author has invented when ~~he or she~~ the student states or implies otherwise, or the falsification of research or other findings with the intent to deceive.

Commented [SW9]: Removed gendered pronouns

(14) “Faculty Member” means a person hired by the University to conduct classroom, research or teaching activities or who is otherwise considered by the University to be a member of its faculty, including officers of instruction, officers of research and officers of administration.

(15) “Gambling” means an activity in which a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. “Gambling” does not include those activities expressly excluded by ORS167.117.

(16) “Harassment” means

(a) Intentionally subjecting a person to offensive physical contact;  
 (b) Unreasonable insults, gestures, or abusive words, in the immediate presence, and directed to, another person that may reasonably cause emotional distress or provoke a violent response (including but not limited to electronic mail, conventional mail, social media and telephone) except to the extent such insults, gestures or abusive words are protected expression; or

Commented [SW10]: Added to reflect the modern types of harassment/behavior seen by SCCS

(c) Other types of prohibited discrimination, discriminatory harassment, and sexual harassment as defined by law.

(17) “Hazing” means any initiation rites, on or off campus, involving any intentional action or situation that a reasonable person would foresee as causing mental or physical discomfort, embarrassment, or ridicule. Individual acceptance of or acquiescence to any activity that occurs during an initiation rite does not affect a determination of whether the activity constitutes hazing. Activities and situations that may occur as part of hazing include, but are not limited to:

- (a) Sleep deprivation or causing excessive fatigue;
- (b) Physical or psychological shock;
- (c) Public stunts or jokes;
- (d) Compelled ingestion of any substance;
- (e) Degrading or humiliating games or activities;
- (f) Activities that have an adverse effect on academic progress;
- (g) Forced servitude;
- (h) Activities which are not consistent with the parent organization's rules and regulations; or
- (i) Other activities which violate Federal, State, or local laws.

(18) “Institution” means the University of Oregon and all of its undergraduate, graduate and

professional schools, divisions, activities and programs and may be used interchangeably with "University."

(19) "May" is used in the permissive sense.

(20) "Mental Disorder" for purposes of Sexual Misconduct in the Student Conduct Code means that a person suffers from a mental disease or disorder that renders that person incapable of appraising the nature of the conduct of another person.

(21) "Mental Incapacitation" for purposes of Sexual Misconduct in the Student Conduct Code means that a person is rendered incapable of appraising or controlling one's own conduct at the time of the alleged offense because of the influence of a controlled or intoxicating substance or because of any act committed upon the person without consent.

(22) "Member of the University Community" includes any person who is a student, faculty member, University official or any person employed by the University.

(23) "Penetration" for purposes of Sexual Misconduct in the Student Conduct Code means any degree of insertion, however slight, of the penis or any object into the vagina or anus, or the penis into the mouth.

(24) "Physical Helplessness" for purposes of Sexual Misconduct in the Student Conduct Code means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to engage in an act.

(25) "Plagiarism" means using the ideas or writings of another as one's own. It includes, but is not limited to:

- (a) The use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement; and
- (b) The unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(26) "Policy" means the written regulations of the University. Examples of where written policies may be found include, but are not limited to:

- (a) The Student Conduct Code;
- (b) Residence Life Contract;
- (c) Information posted by the University on its web pages;
- (d) Computer Acceptable Use Policy;
- (e) Living Group Alcohol policy;
- (f) Greek Social Policy;
- (g) Graduate/Undergraduate Catalog;
- (h) Student Handbook; and
- (i) University and Oregon University System Oregon Administrative Rules.

(27) "President" means the University President.

(28) "Shall" and "will" are used in the imperative sense.

(29) "Sexual Misconduct" means:

- (a) Unwanted Penetration is Penetration of another person, or causing the Penetration of another person, when one:
  - (A) Does not first obtain Explicit Consent from that person; or
  - (B) Knows or should have known the person was incapable of explicit consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.
- (b) Nonconsensual personal contact occurs when a student subjects another person to contact of a sexual nature when a reasonable person would know that such contact would cause

emotional distress:

- (A) Without having first obtained Explicit Consent; or
- (B) When he or she knows or should have known the person was incapable of explicit consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.
- (c) Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that interferes with work or academic performance because it has created an intimidating, hostile, or degrading environment and would have such an effect on a reasonable person of the alleged complainant's status when the conduct is unwelcome and sufficiently severe or pervasive that it deprives that person of benefits of the University's educational environment.

(d) A single episode of behavior that meets (a), (b), or (c) can be sufficient for a finding of sexual misconduct

**Commented [SW11]:** Additional language proposed and passed by UO Senate. The Division of Student Life agrees with this change because it is crucial that the code makes it clear that a single incident of sexual misconduct is enough to be found responsible for an allegation.

(30) "Student" means any person who has student status pursuant to ~~571-021-0115~~, [Section IV \(Jurisdiction\) of this code](#).

(31) "Student Organization" means any group of University of Oregon students meeting criteria for group recognition established by the University.

(32) "University" means the University of Oregon and all of its undergraduate, graduate and professional schools, divisions, activities and programs and may be used interchangeably with "institution."

(33) "University Appeals Board" means the person or persons authorized by this Code ~~pursuant to 571-021-0165~~ to consider an appeal from the outcome of an administrative hearing. [conference](#)

**Commented [SW12]:** Changed to make consistent with our process. All cases are heard by an administrative conference rather than a hearing

(34) "University Official" means a person having assigned University responsibilities who is performing their University assignment.

(35) "University Premises" includes all land, buildings or grounds owned, leased, operated, controlled or supervised by the University including adjacent sidewalks and streets.

(36) "University Sponsored Activity" means any activity, including activities sponsored or organized by recognized student organizations, on or off University premises that is directly initiated or supervised by the University.

(37) "Unwanted Contact" means repeated or persistent contact or attempts to contact another person when the contacting person knows or should know that the contact is unwanted by the other person; and

- (a) The contact would cause a reasonable person fear of physical harm; or
- (b) The contacting person knows or should know that the contact substantially impairs the other person's ability to perform the activities of daily life.

## **571-021-0110**

### **III. Delegations and Authority**

**The Board of Trustees of the University of Oregon delegates authority for administering this Code and the Student Conduct program as provided below:**

(1) The Director of Student Conduct and Community Standards shall develop policies for the administration of the student conduct system and procedural that are consistent with provisions of the Student Conduct Code.

(a.) Consistent with ~~571-021-0205(1)(d)~~, this code the Vice President for Student Life's ~~or~~ designee may serve ad hoc in place of the Director of Student Conduct and Community Standards.

(2) ~~The Community Standards~~ **The Student Conduct** Committee shall be responsible for recommending to the Board of Trustees of the University of Oregon policy or administrative changes in any aspect of the Student Conduct Program.

**Commented [SW13]:** Changed to reflect the current name of the committee

(a) The Committee shall be appointed by the President and shall consist of four faculty members to be recommended by the Committee on Committees and four student members to be recommended by the ASUO. Faculty and student members shall serve staggered, two-year terms and may be reappointed, up to three consecutive terms, or a maximum of six consecutive years. The President may appoint temporary members to assure full Committee membership during summer session or at such other times as are necessary.

(b) The Director of Residence Life or designee, the Director of Student Conduct and Community Standards and the Director of the Office of Student Advocacy shall be non-voting, ex-officio members of the ~~Community Standards Committee~~ **Student Conduct Committee**.

**Commented [SW14]:** Changed to reflect the current name of the committee

(3) Sub-delegation of Authority to ~~Minor Tribunals~~ **alternative processes** and hearing officers.

**Commented [SW15]:** The Student Conduct Process is based on an educational and developmental model for an administrative process, rather than an adversarial model based on the criminal process. Each instance of this language was changed to make the code language more consistent with our practice and to reflect the educational philosophy of the Office of Student Conduct and Community Standards, removing "judicial" terminology

(a) With the consent of the President of the University, the Community Standards Committee may sub-delegate jurisdiction to handle violations of the Student Conduct Code to University officials, committees or ~~minor tribunals~~ **alternative processes**. In all instances such sub-delegation shall be defined by the Committee in terms of specific jurisdiction, enforceable regulations, and maximum disciplinary sanctions that may be imposed.

**Commented [SW16]:** See note [SW15] above.

(b) Subject to approval by the President, the Community Standards Committee sub-delegates to the Interfraternity Council, Panhellenic Council, Club Sports Executive Committee, and Residence Hall Association the authority to formulate:

- (A) Regulations governing the conduct of their respective organization members;
- (B) Hearing procedures and administrative practices to be followed by their respective

~~tribunals~~ **process**;

(C) Disciplinary sanctions exclusive of expulsion, suspension, eviction or negative notation on transcript appropriate to the enforcement of their respective regulations; and

**Commented [SW17]:** See note [SW15] above.

(D) Procedures for publication and notification to affected students of such regulations, hearing procedures and disciplinary sanctions.

(c) All such regulations, hearing procedures, and disciplinary sanctions shall be reduced to writing and approved by the ~~Community Standards~~ **Student Conduct** Committee prior to implementation.

**Commented [SW18]:** Changed to reflect the current name of the committee

(d) The authority granted to ~~minor tribunals~~ **alternative processes** and their respective governing bodies is conditional and may be withdrawn at any time by the Community Standards Committee when a ~~minor tribunal~~ is either unable or unwilling to assume its responsibilities as part of the University's Student Conduct Program.

**Commented [SW19]:** See note [SW15] above.

## **IV. Jurisdiction**

### **Jurisdiction describes where and when the Student Conduct Code applies.**

(1) Jurisdiction over types of actions and events. The Student Conduct Code applies to actions by Students that materially interfere with:

- (a) An educational opportunity of a University community member;
- (b) The health and safety of any person;
- (c) The maintenance or protection of University property or personal property located on campus;
- (d) University record keeping;
- (e) University living accommodations and other services; or
- (f) University sponsorship or supervision of non-classroom activities such as lectures, concerts, athletic events and social functions.

(2) Jurisdictional boundaries.

(a) On-Campus. The Student Conduct Code routinely applies to actions which occur on University Premises or at a University Sponsored Activity.

(b) Off-Campus. The University extends jurisdiction without exception to off-campus sexual misconduct that consists of unwanted penetration or non-consensual personal contact as defined in ~~571-021-0105(3)~~ Section 1, II (29) of this code. The University shall have discretion to extend jurisdiction over conduct that occurs other than on University Premises or at a University Sponsored Activity. In determining whether or not to extend jurisdiction, the University will consider its ability to gather information, including testimony of witnesses. The University may extend jurisdiction if the alleged conduct would have violated the Student Code of Conduct if the conduct had occurred on campus; and:

- (A) Adversely and significantly affects the learning or living environment; or
- (B) Involved violence or produced a reasonable fear of physical harm; or
- (C) Involved academic work or any records, documents, or identifications of the University.

(3) Student Status. An individual's status as a "student" is established by:

- (a) An application for admission, housing, financial aid, or any other service provided by the University which requires student status;
- (b) Registration for one or more credit hours; or
- (c) Enrollment in a special non-credit program approved by the University.

(4) Jurisdiction over non-enrolled students. Jurisdiction is maintained between periods of enrollment unless the accused individual's official record in the Office of the Registrar shows a complete withdrawal prior to the expiration of the published deadline for registration for the succeeding period of enrollment. For students enrolled in the spring term, jurisdiction is maintained until the expiration on the published deadline for registration for the succeeding fall term.

(a) If a student withdraws from the University after a Student Conduct complaint has been initiated, the University will maintain jurisdiction over the conduct matter until it is fully processed.

**Commented [SW20]:** Proposed change, passed by the UO Senate, modified to ensure that the University has sufficient jurisdiction to complete all cases.

(b) Allegations of sexual misconduct, academic dishonesty or fraudulently obtaining a degree may be filed at any time, whether or not the student is currently enrolled or registered.

(5) ~~In all cases except academic dishonesty or fraudulently obtaining a degree, the University must file disciplinary complaints under the Student Conduct Code within six months of: — (a) The University’s discovery of the student’s or student organization’s involvement in the alleged violation; and no later than [The University has jurisdiction to address all conduct that would have violated the terms of the Student Conduct Code while the student was enrolled, if the conduct occurred from the date the Student is admitted to the University until the Student graduates or otherwise completely withdraws from the University, as described above, even if the conduct is not discovered until after the student completely withdraws or graduates~~

**Commented [SW21]:** Proposed change to clarify and strengthen language that ensures that the University has jurisdiction to move forward and resolve all cases that occurred when a student was an enrolled student.

~~— (b) The student’s last date of enrollment or registration, or an organization’s recognition.~~

**Commented [SW22]:** Proposed change, passed by the UO Senate. This change is necessary and supported by the Division of Student Life because of the unique and tangible impact that sexual misconduct can have on a student’s ability to be able to fully participate in the University experience.

(6) Allegations of sexual misconduct, academic dishonesty or fraudulently obtaining a degree may be considered at any time regardless when the alleged misconduct occurred.

(7) Students may be accountable both to civil and criminal authorities and to the University for behavior that constitute violations of the law and the Student Conduct Code. Since the action of civil and criminal authorities is independent from University action, the University may decide whether to initiate or consider an alleged violation of the Student Conduct Code while criminal charges are pending or before they are filed or after they are resolved.

## 571-021-0120

### V. Violations of Community Standards by Individual Students Student Conduct Code Violations

**Commented [SW23]:** Changed to clarify language, and make the code easier to understand for students.

The following conduct violates the community standards that are essential to the core educational mission of the University of Oregon and subjects a Student or Student Organization to sanctions under the Student Conduct Code: (see Section 1, I for definitions)

**Commented [SW24]:** Changing to be consistent with new code numbering system

(1) Standards Relative to Academic and Personal Integrity. Integrity is a bedrock value of the University community and includes respect for open and honest intellectual exchange as well as respect for University records and for the Student Conduct Code itself. The following conduct violates standards of academic integrity:

- (a) Cheating ~~as defined in 571-021-0105(3);~~
- (b) Fabrication ~~as defined in 571-021-0105(14);~~
- (c) Plagiarism ~~as defined in 571-021-0105(26);~~
- (d) Academic misconduct ~~as defined in 571-021-0105(1);~~
- (e) Intentionally furnishing false information to a University Official;
- (f) Forgery, alteration or unauthorized use of University documents, records, keys student

**Commented [SW25]:** References to individual definitions removed, replaced with the general statement (see Section 1, II for definitions)

identification, keycards or services;

(g) Creation or distribution of false identification;

(h) Failure to comply with the terms of any sanction imposed in accordance with the Student Conduct Code; or

(i) Contempt of adjudicative proceedings including impairing or interrupting the due course of proceedings in the presence of any ~~tribunal~~ process created under this Code. Adjudication of contempt and imposition of sanctions may be imposed summarily consistent with ~~571-021-0240~~ procedures outlined in this code.

Commented [SW26]: See note [SW15] above.

**(2) Standards Relative to Respect for Property and for Shared University Resources. The following conduct violates standards of respect for property and shared University resources:**

(a) Engaging in behavior that could reasonably be foreseen to cause disruption of, obstruction of, or interference with the process of instruction, research, administration, student discipline, or any other service or activity provided or sponsored by the University;

(b) Damage, destruction, theft, or unauthorized use of property located on the University campus or property owned or controlled by the University;

(c) Unauthorized entry into or use of University property or University-recognized living units, facilities, residence halls, equipment, or resources;

(d) Disorderly conduct (including that resulting from the use of alcohol), unreasonable noise, or conduct that results in unreasonable annoyance;

(e) Failure to comply with the reasonable directions of public officials acting in performance of their duties on University Premises or at a University Sponsored Activity when such conduct poses a danger to personal safety or property or obstructs or impairs educational or other Institutional activities;

(f) Violation of University Policy on the acceptable use of computing and network resources. Unacceptable uses of computing resources include, but are not limited to:

(A) Use of electronic forums to violate other sections of the Student Conduct Code;

(B) Sharing of accounts or computer lab passes;

(C) Violation of electronic privacy;

(D) Interference with computer use or operations;

(E) Commercial or illegal use of electronic or computer resources;

(F) Violation of copyright law; or

(G) Threats, abuse or Harassment, as defined in ~~571-021-0105()~~ in this code made or transmitted via electronic forums, social media platforms or electronic mail.

Commented [SW27]: Changed to reflect modern realities of student use of University computing resources

Commented [SW28]: Changed to reflect modern realities of student use of University computing resources

**(3) Standards Relative to the Rights of Individuals and to the Welfare of the University Community. An environment conducive to learning is one where the rights, safety, dignity and worth of every individual are respected. The following conduct endangers such an environment, and threatens the welfare of the University community as a whole:**

(a) Physical contact that endangers, threatens, or harms the health or safety of any person or behavior that causes a reasonable person to fear such contact;

(b) Hazing, as defined in ~~6AR571-021-0105(18)~~; [this code](#)

(c) Possession, use, or threatened use of a weapon, ammunition, or any object or substance used as a weapon on University Premises or at a University Sponsored Activity unless expressly authorized by law or University Policy. A concealed weapons permit does not constitute authorization;

(d) Unauthorized possession, use, or threatened use of dangerous chemical or biological substances or explosives;

(e) Tampering with fire-fighting equipment, turning in a false alarm, or engaging in conduct that constitutes a significant fire hazard;

(f) Harassment, as defined in ~~571-021-0105(17)~~; [this code](#) because of another person's race, ethnicity, color, gender, gender identification, national origin, age, religion, marital status, disability, veteran status, sexual orientation, or for other reasons, including but not limited to harassment prohibited by University Policy.

(g) Unwanted Contact, as defined in ~~571-021-0105(38)~~; [in this code](#)

(h) Sexual Misconduct. ~~A mission of the Student Conduct Code is to encourage good decision-making, personal integrity, and interpersonal behavior that is cooperative rather than coercive and that respects the rights of others. Sexual misconduct violates these values, and is committed when a student engages in sexual behavior described in 571-021-0105(30). As defined in this code~~

~~(A) A complaint alleging Sexual Misconduct may be filed whenever Sexual Misconduct:~~

~~(i) Materially interferes with another person's academic performance or participation in a University Sponsored Activity, or performance of University employment;~~

~~(ii) Is committed on University Premises or at a University Sponsored Activity; or~~

~~(iii) Demonstrates reasonable threat to the health or safety of a Member of the University Community or the alleged student survivor.~~

~~(B) (A) Sexual gratification or pleasure of any party involved is not relevant to a determination of whether Sexual Misconduct occurred.~~

~~(C) (B) A violation of provisions of the alcohol or drug policy in the Student Conduct Code does not affect a person's ability to file a complaint regarding another person's Sexual Misconduct on the same occasion.~~

~~(D) (C) Consent to one form of sexual activity does not automatically operate as explicit consent to any other form sexual activity. A "no" always means that explicit consent is not present, whereas a "yes" to one act at one time does not mean "yes" to other acts or to the same act at other times. Voluntarily making oneself incapacitated does not mean one is giving explicit consent to any form of sexual activity.~~

(j) Prohibited alcohol use, which includes:

(A) Possession or consumption of alcohol by those under 21 years of age on University Premises or at a University Sponsored Activity;

(B) Furnishing of alcohol to a person under 21 years of age; or

(C) Consumption of an alcoholic beverage by a person at least 21 years of age or furnishing of an alcoholic beverage by or to a person at least 21 years of age, except in such areas and at such times as the University authorizes.

(k) Prohibited drug use, which includes:

**Commented [SW29]:** Proposed change, passed by the UO Senate. This change is supported by the Division of Student life because it allows the Office of Student Conduct and Community Standards to be able to be more responsive to allegations so sexual misconduct. This is also consistent with the guidance from the Office of Civil Rights in their 2011 Dear Colleague Letter.

**Commented [SW30]:** This section would be removed by a proposed change, passed by the UO Senate. The goal of the Senate was to remove hurdles required to file a formal complaint alleging sexual misconduct. This change also reflects the extended jurisdiction of the student conduct code.

(A) Manufacture, processing, distribution, or cultivation of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity, except as expressly permitted by both State and Federal law;

(B) Sale of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity; or

(C) Possession of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity except as expressly permitted by law.

(l) Lewd or indecent conduct on University Premises or at a University Sponsored Activity. Lewd or indecent conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record that would be an invasion of privacy pursuant to ORS163.700. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(m) Gambling, as defined and prohibited in ORS167.108 to 167.164 except as authorized by ORS464.270 to 464.530.

**571-021-0130**

## VI. Sanctions

The University utilizes an educational sanctioning model; ~~hearing officers~~ administrators will make every attempt to provide an educational sanction that will help a student to make better choices in the future. The educational sanction applied will become progressively more demanding if the student repeats violations, demonstrating that learning has not taken place. An accumulation of a variety of violations including sexual assault may result in severe sanctions such as suspension, expulsion or negative notation on a transcript. Academic dishonesty and violations affecting the health, safety and well being of ~~the community—anyone~~ are deemed the most severe and may result, upon the first violation, in a negative notation being placed on a transcript, suspension, or expulsion.

### (1) Forms of Sanctions

(a) Expulsion. Student status is severed permanently. A Student who has been expelled from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises.

#### (b) Suspension.

(A) Individual Suspension. Student status is severed for a specified period. A student who has been suspended from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises during the period the student is suspended.

(B) Group Suspension. A Student Organization loses University recognition and all privileges associated with such recognition for a specified period. Imposition of this sanction against the ASUO or a recognized Student Organization requires approval by the Vice President for Student Life's designee;

(c) Negative Notation on Transcript. Entry of the fact of violation on the Student's permanent academic record as the sole or an additional sanction may be imposed at the discretion of the ~~hearing officer~~ administrator. After the expiration of the period of time, if any, set by the hearing

**Commented [SW31]:** Added to acknowledge the differences between State and Federal law regarding Marijuana.

**Commented [SW32]:** Changed to reflect the titles SCCS uses in practice

**Commented [SW33]:** Change Passed by UO Senate to address the serious nature of allegations of sexual assault.

**Commented [SW34]:** Change Passed by the UO Senate. This change is supported by the Division of Student Life because severe conduct (such as sexual assault) that is committed by a UO student can and should affect a student's ability to be a part of the UO Community. This should not be contingent upon whether the victim of that offense is a member of the UO community.

**Commented [rjr35]:** Added to all instances in the Code to ensure compliance with OCR and VAWA and to ensure that cases can move forward at all times.

**Commented [SW36]:** Changed to reflect the titles SCCS uses in practice

officer, the notation shall be removed upon the request of the Student or former Student.

(d) Revocation of Degree. An academic degree previously awarded by the University may be revoked if it was obtained by fraud or a significant part of the work submitted in fulfillment of, and indispensable to, the requirements for such degree constitutes Plagiarism. The Academic Requirements Committee may, upon appeal of a University graduate subjected to degree revocation, stipulate the requirements for obtaining a degree.

(e) Grade Penalty. A Student admitting Academic Misconduct or found responsible for Academic Misconduct is subject to a grade penalty as determined by the instructor in the course in which the violation occurred.

(f) Disciplinary Probation. In lieu of another sanction, a period of probation may be imposed during which any violations of the Student Conduct Code will result in more serious sanctions than might be otherwise imposed. A Student or Student Organization on probation may or may not lose designated privileges during the period of probation. During the time on probation, a Student or Student Organization may, by demonstrating good conduct, avoid additional sanctions. Imposition of this sanction against the ASUO or an ASUO-recognized group requires approval by the Vice President for Student Life's designee.

(g) Restitution. The Student or Student Organization is required to replace or restore damaged, stolen, or misappropriated property.

(h) Educational Activity. The Student or Student Organization is required to complete a project or activity designed to help the Student or Student Organization understand why the behavior was inappropriate and encourage future compliance with the Student Conduct Code. The educational activity is designed to correspond to the severity and nature of the violation and to clarify the impact of that behavior on Members of the University Community. Educational activities may include, but are not limited to, assessments of substance abuse and other behaviors, community service, workshops, papers and similar assignments. An educational activity will not normally be used alone for cases of unwanted penetration or nonconsensual physical contact; it should only be used in conjunction with more serious sanctions, including reprimands, notations on transcripts, and expulsions.

(i) Loss of Privileges. The Student or Student Organization is denied specified privileges normally associated with Student Status or recognized Student Organization status, such as participation in or sponsorship of University activities, use of University facilities or services, or living in University-owned or supervised housing. Imposition of this sanction against the ASUO or an ASUO-recognized group requires approval by the Vice President of Student Life's designee.

(j) Conduct Reprimand. The Student or Student Organization is given written notice that the conduct engaged in is inconsistent with University standards and expectations and informed that future violations of the Student Conduct Code may result in the imposition of more serious sanctions.

(k) Suspended Sanction. The execution of any sanction authorized under the Student Conduct Code may be suspended. When suspending a sanction, a time limit for the suspension period shall be designated, and subsequent violations of the Student Conduct Code that will terminate the suspension and result in the imposition of the original sanction shall be specified. In the absence of any such violation, the original sanction shall be deemed completed at the end of the suspension period.

**Commented [SW37]:** Change passed by UO Senate and supported by the Division of Student Life because this language make it exceptionally clear that sexual assault will not be tolerated on the UO campus, and that the most significant sanctions that the University has available will always be considered in these cases.

(2) Medical Leave. Actions taken pursuant to University policies on medical leave shall not be deemed disciplinary sanctions within the meaning of the Student Conduct Code.

(3) Failure to complete a sanction will be handled pursuant to ~~571-021-0240(3)~~. [Processes found in this code.](#)

**571-021-0140**

## **Section 2: Student Rights**

**Procedural fairness is basic to the proper enforcement of all University regulations. Accordingly, no disciplinary action shall be initiated or sanction imposed against a Student or Student Organization until they have been notified in writing of the complaints against them and their rights under this Code, and given the opportunity to be heard. Complainants shall also be accorded certain accommodations, as provided below.**

(1) Regulations and disciplinary sanctions affecting the conduct of all Students shall be based on general principles of equal treatment.

(2) The Director of Student Conduct and Community Standards shall insure that the best interests of Students and Student Organizations are served, regardless of whether disciplinary action is taken, by making full use of appropriate medical, counseling and other professional services at the University, or if necessary by making referrals to community resources. For purposes of this Division, the Director may authorize another staff member to carry out any of the Director's responsibilities unless expressly prohibited from doing so.

(3) Students shall have an opportunity to participate in the formulation of all regulations and policies pertaining to the Student Conduct Code at the University of Oregon.

(4) All University regulations and policies pertaining to student discipline shall be published, distributed, or posted in such a manner as to furnish adequate notice of their contents to Students or Student Organizations.

(5) Students accused of violations of the Student Conduct Code can expect the following procedural protections:

(a) To be informed of the complaint and alleged misconduct upon which the complaint is based;

(b) To appear before the Director of Community Standards [or their designee](#) in an administrative ~~disciplinary~~ conference, as outlined at ~~571-021-205~~. [in this code.](#)

(c) To be allowed reasonable time to prepare for the conference.

(d) To be informed of the information upon which a complaint is based and accorded an opportunity to offer a relevant response;

(e) To ~~identify relevant witnesses~~; [propose relevant witnesses and submit suggested questions to the Director](#)

(f) To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act and Oregon law.

(g) To request that any person conducting a disciplinary conference be disqualified on the ground of personal bias.

(h) To be considered not responsible for the alleged conduct until proven responsible by a

**Commented [SW38]:** Changing to be consistent with new code numbering system

**Commented [SW39]:** Changed to adhere with current student conduct practice

preponderance of the information.

(i) To have an adviser of their choice present at the conference provided that the advisor's schedule does not unreasonably delay the conference. The director shall determine what constitutes an "unreasonable" delay.

(6) A student accusing another student of a violation of the Student Conduct Code can expect the following procedural accommodations:

(a) To be allowed reasonable time to prepare for any participation in the conference;

(b) To be accorded the opportunity to offer a relevant response to any assertions made;

(c) To propose relevant witnesses and submit suggested questions to the Director;

(d) To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act and Oregon law;

(e) To request that any person conducting a disciplinary conference be disqualified on the ground of personal bias;

(f) To be protected against retaliation for filing a complaint;

(g) To have an advisor of their choice present at the conference provided that the advisor's schedule does not unreasonably delay the proceeding. The Director shall determine what constitutes an "unreasonable" delay;

(h) Upon request in the case of sexual misconduct, to be present in a separate room instead of the same room as the accused student.

**Commented [SW40]:** Change passed by the UO Senate. Changes in this section are supported by the Division of Student life because they ensure that both complainants and respondents have equal procedural rights in the student conduct process. These changes are also crucial for the code to be compliant with guidance from the Federal Government, both in the updates to the Violence Against Women act, and in response to guidance from the Office of Civil Rights regarding enforcement of Title IX.

## **571-021-0150** Section 3: Administration of the Student Conduct Process

### I. Administrative Policies ~~Administration of the Conduct System~~

**[This section of the code designates who is in control of the Conduct ~~System~~ Process, and how the code and cases are administered.]**

**Commented [SW41]:** Changes to reflect that Student Conduct is referred to as a process rather than a system

(1) Disciplinary Records and Files. Case referrals will result in the development of a disciplinary file in the name of the accused student. If the Student is found not responsible for the complaints, the disciplinary file will become void.

(a) Voided files will be so marked and shall not result in a disciplinary record. Voided files will normally be destroyed after one year. Where a Student files a conduct complaint against another Student, a file shall be created for both Students.

(b) Disciplinary records may be voided by the Director of Conduct and Community Standards for good cause, upon written petition from the student. Factors to be considered in review of such petitions shall include:

(A) The conduct of the Student subsequent to the violation; and

(B) The nature of the violation and the severity of any damage, injury, or harm resulting from it.

(2) Student Conduct Reports.

(a) The Community Standards Committee shall require from University officials, hearings boards, referees, committees and tribunals periodic written reports of the disposition of all student conduct cases dealt with under their jurisdiction. The Committee shall examine such reports for consistency with existing policies and, when necessary, review the reports with the appropriate officials or tribunals.

(b) At the end of each academic year, the Committee shall submit to the Board of Trustees President, University Senate, Deans, Department Heads, the ASUO President, and the Office of Student Advocacy, a written report covering the entire Student Conduct Program, including an evaluation of the existing rules, policies, and enforcement procedures. This report shall also detail all Code revisions approved during the previous year and shall be available to any person upon request.

(3) Director of Student Conduct and Community Standards.

(a) The President of the University shall designate a Director of Student Conduct and Community Standards who shall have primary responsibility for administering the Student Conduct Program and coordinating the activities of all University officials, hearing officers, referees, committees, or tribunals that are concerned with the Community Standards Program.

(b) The Director shall be responsible to the ~~Community Standards~~ Student Conduct Committee for maintaining complete records pertaining to the activities of the Community Standards Program. Those records shall include a summary of the business of the Community Standards Committee and a report of the disposition of each disciplinary case handled by any person or group authorized to impose disciplinary sanctions in the name of the University. For record keeping purposes, the Director may prescribe reporting procedures to be followed, in addition to those in paragraph (2) above by those authorized to impose disciplinary sanctions.

(c) The Director shall serve as non-voting Secretary of the Community Standards Committee and as advisor to all individuals and groups authorized to impose disciplinary sanctions. The Director shall serve as a non-voting, ex-officio member of the Residence Hall Governance Committee and of the residence hall Peer Judicial Board.

(d) The Director shall be responsible for gathering and presenting to the ~~Community Standards~~ Student Conduct Committee the reports required by this code.

(4) Student Conduct Code Adoption, Amendment and Revision.

(a) Code establishment. Upon approval by the Board of Trustees of the University of Oregon, this Student Conduct Code becomes effective and supersedes all previous regulations and policies pertaining to student discipline at the University of Oregon.

(b) Code Amendment. This Code may be amended by the Board of Trustees of the University of Oregon, consistent with the Policy on Retention and Delegation of Authority upon consultation with the president, faculty, and students.

(c) Code Revision. This Code shall be continuously reviewed in its entirety to make sure it is consistent with best practices.

Commented [SW42]: Change reflects the current name of the committee

**571-021-0165**

**University Appeals Board 571-021-0200**

## II. Student Conduct Procedures

[This section of the code describes the process that the Student Conduct office adheres to following an alleged violation of ~~in~~ the code.]

(1) Complaint. Any Member of the University Community or the public may file a complaint against a Student (or non-enrolled student as defined in this code) for a violation of the Student Conduct Code. A complaint shall be prepared in writing and directed to the Director of Student Conduct and Community Standards. Any complaint should be submitted as soon as possible after the alleged violation takes place, preferably within one year. Jurisdiction is determined pursuant to ~~571-021-0115~~ Section 1 of this code. The longer one waits to file a complaint the less information is likely to be available for the hearing, therefore it is important to file a complaint as soon as possible. Once the Office of Community Standards receives a complaint, the Office has ~~six months~~ 60 days to send written notice to the accused Student of the complaint, unless for good cause an extension of six months is provided in writing by the Vice President for Student Life's designee.

(2) Notice. Upon receiving a complaint or notice that a Student may have violated the Student Conduct Code, the Director of Student Conduct and Community Standards shall serve a written notice upon the Student, either by electronic mail or by mailing to the latest address of the Student on file at the Office of the Registrar of the University, or, if necessary, by registered or certified mail or by personal service. A status update on the case shall be sent to the member of the university community who filed the complaint. Such notice shall inform the student of:

- (a) The alleged Code violation;
- (b) The opportunity for the student to meet with the Director for purposes of discussing the options for disposition of the case;
- (c) The Student's right to assistance. At an administrative conference with the Director (or their designee or before the Appeals Board, of the Vice President for Student Life's designee, if applicable, a Student may, but need not represent his or her own interests, or be assisted by someone including but not limited to one of the following representatives:
  - (A) The Office of Student Advocacy;
  - (B) Another Student;
  - (C) A member of the faculty or administration;
  - (D) ~~A member of the Oregon Bar.~~ An attorney
- (d) The requirement to respond within 7 calendar days to arrange a meeting with the hearing officer. The hearing officer will proceed as provided ~~in (3)(b)~~ below if the Student does not arrange to meet or fails to meet with the hearing officer as arranged.

(c) Where sexual misconduct is alleged, the complainant is entitled to the same opportunity as the accused student to have an advisor. If either student retains a legal

**Commented [SW43]:** MOVED to Section 3, IV . A more logical place in the code.

**Commented [SW44]:** Change reflects expansion of off-campus jurisdiction

**Commented [SW45]:** Changed passed by UO Senate. This change is supported by the Division of Student Life because it provides clarity to students that a complete withdrawal does not necessarily mean that the Office of Student Conduct and Community Standards retain jurisdiction in a case.

**Commented [SW46]:** Changing to be consistent with new code numbering system

**Commented [SW47]:** Change Passed by UO Senate. This change is supported by the Division of Student Life because it helps clarify that it is the Office of Student Conduct and Community Standards' responsibility to act expediently to resolve complaints referred to the Office.

**Commented [SW48]:** Change Passed by UO Senate. This change is supported by the Division of Student Life because it helps to ensure that complainants are allowed an equitable opportunity to participate in the process.

**Commented [SW49]:** Change reflects that Bar Membership is not relevant in our process

advisor, the other student is entitled to one funded by the University at no cost to the student, if he or she the student so chooses. The University will provide this assistance through reasonable reimbursement, through a contract with an organization, or through other arrangement.

(e) To the extent the University provides free legal representation to students who are party to student conduct proceedings, it will ensure that free legal representation is equally available to student respondents and student complainants.

**Commented [SW50]:** Edited to provide equity in representation, but allow the University to develop a mechanism to permanently put it in place

**Commented [rjr51]:** See Comment [SW50] above

(3) Response: If after receiving notice, pursuant to this rule, the Student does not arrange to meet with the Director within 7 days or if the Student arranges to meet with the Director but does not attend such a meeting, the Director of Student Conduct and Community Standards may take any of the actions specified in [this code](#) for disposition of the case without consultation with or agreement by the Student.

~~(5)~~ 4. With the consent of an Accused Student, the Director of Student Conduct and Community Standards may defer proceedings for alleged minor violations of this Code for a period not to exceed ninety days. Pending complaints may be withdrawn thereafter at the discretion of the Director of Student Conduct and Community Standards or designee.

## 571-021-0205

### III. Administrative Conferences

**[This section of the code outlines the rights that an accused student holds during the Conduct procedures, including rights relating to the student's mental capacity and any mental disorder the from which the student may suffer.]**

(1) Complainants, witnesses, and accused students may have an advisor, as defined ~~in 571-021-0200(2)(e), this code~~, present during any interviews with the Director of Student Conduct and Community Standards, or designee, and any other ~~disciplinary~~ [conduct](#) proceeding.

**Commented [SW52]:** The Student Conduct Process is based on an educational and developmental model for an administrative process, rather than an adversarial model based on the criminal process. This language was changed to make the code language more consistent with our practice.

(2) Students accused of violations will have an administrative conference with the Director of Student Conduct and Community Standards, or designee. The following procedural protections are provided to accused students in [administrative](#) conferences:

(a) Reasonable access to the case file prior to and during the conference, except to the extent access to such material is prohibited by law. The case file may contain materials that are considered "education records" pursuant to the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended and personal notes of University staff members and complainants. Access to these materials may be prohibited by law. Otherwise, to the extent allowed by law, copies of the case file will be provided upon request.

(b) An opportunity to respond to all information provided and to ask the Director or designee hearing the case to contact relevant and necessary witnesses.

(c) The right to have the case referred outside the Office of Community Standards if the Student can articulate a reasonable basis from which to conclude that the Office of Community Standards is biased for some reason that would prevent the student from receiving a fair hearing by the office. Such cases are referred to the Vice President for Student Life's ~~or his or her~~ their designee.

Commented [SW53]: Removed gendered pronouns

(3) In cases where the Director of Student Conduct and Community Standards concludes that a Student accused of any offense under the Student Conduct Code lacks the mental capacity to respond to the complaint, the Director shall stay the proceeding until such time that the Director concludes that the Student may adequately respond. A stay granted pursuant to this section shall not in any manner preclude a proceeding for medical leave under OAR Chapter 571, Division 23. If the student has been accused of Academic Misconduct, no academic sanction may be imposed during a stay granted pursuant to this section, but the faculty member for the coursework out of which the complaint of Academic Misconduct arose shall request the Registrar to assign a grade of "I" until the disciplinary proceeding has been completed.

(4) No sanctions shall be imposed against a Student who acknowledges engaging in the specific conduct alleged and who submits a written statement from a Student Health Center psychiatrist or a Counseling Center psychologist stating that, as a result of mental disorder at the time of the offense, the Student did not appreciate the wrongfulness of the conduct or could not conform his or her behavior to the requirements of the Code. The Student may submit any other supplemental information pertinent to his or her mental condition to the Director of Student Conduct and Community Standards. If, based upon all information received, the Director decides that the conduct of the Student resulted from mental disorder, the Director shall seek professional assistance and advice, and, if appropriate and legally authorized, consult with the Student's parent or guardian or take other measures to assure a fair disposition of the case. If the Student has been accused of Academic Misconduct, the faculty member for the coursework in which the Academic Misconduct took place shall assign an appropriate grade.

(5) Administrative conferences regarding Sexual Misconduct will generally be complete within 60 days of the receipt of the complaint; however, the 60 day period may be extended for good cause including but not limited to situations where the complexity of the investigation, the number of witnesses identified, or the volume of information which needs to be gathered and reviewed necessitates more time.

Commented [SW54]: Added to be in compliance with the amendments to the Violence Against Women Act.

## IV. Appeals

Commented [SW55]: This section moved for a logical placement in the code

**The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. ~~As set forth in OAR571-021-0165 this~~ The Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions issued following an administrative conference.**

(1) A decision reached through an administrative conference may be appealed by the Accused Student or Complainant(s) within fourteen calendar days of the decision. Such appeals shall be in writing, state the basis for the appeal and be delivered to the Office of Student Conduct and Community Standards. All appeals of cases involving sexual misconduct will be heard directly and exclusively by the Vice President for Student Life's designee; all other appeals will be heard

by the Appeals Board.

(a) An Accused Student who does not attend the administrative conference may appeal only to show with direct information that the Accused Student did not receive notice of the conference.

(b) A Complainant(s) who fails to attend any requested meetings with the Director or fails to present information in a format approved by the Director may appeal only to show with direct information that the Complainant did not receive notice of the hearing.

(2) Except as the Appeals Board or the Vice President for Student Life's designee determines necessary to explain the basis of new information, an appeal is limited to a review of the verbatim record of the administrative conference and supporting documents:

(a) To determine if the administrative conference was conducted fairly in light of the complaint made and information presented and in conformity with procedures required in this Code, giving the Complainant a reasonable opportunity to present information, and giving the Accused Student reasonable notice and an opportunity to prepare and to respond to the allegations. A deviation from procedures required by this Code will not be a basis for sustaining an appeal unless significant prejudice results;

(b) To determine whether the decision reached regarding the Accused Student was based on substantial information, that is, whether there were facts that, if believed by the Director or designee were sufficient to establish that a violation of the Code occurred;

(c) To determine whether the sanction(s) imposed were commensurate with violation;

(d) To consider new information sufficient to alter a decision or other relevant facts not brought out in the original hearing only if such information or facts were not known to the person appealing at the time of the hearing.

(3) No decision of may be overruled by the Appeals Board except through an affirmative vote of a majority of the Appeals Board members present. If the Appeals Board or the Vice President for Student Life's designee overrules a decision in whole or in part, it may:

(a) Modify the decision or sanction; or

(b) Remand for further proceeding.

## V. University Appeals Board

Commented [SW56]: Section moved to a more logical placement in the code

**The University Appeals Board is one option that the student has to have their case reviewed. This section of the code outlines how the members of the Appeals Board are chosen.**

(1) The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. As set forth in this code, the Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions of all administrative conferences in cases except those involving sexual misconduct which shall be appealed directly to the Vice President for Student Life's designee.

(2) Membership. The Appeals Board shall consist of three faculty members, recommended by the Committee on Committees of the University Senate, and three student members, recommended by the ASUO. Board members shall be appointed by the President and serve for one-year terms. They may be reappointed, but no member may serve for more than two consecutive terms. Temporary members may be appointed to assure full Appeals Board membership during summer session or at such other times as are necessary. The President shall

designate one of the members as pro tempore chair of the Appeals Board.

(3) The Appeals Board will elect its permanent chair at its first meeting. A quorum shall consist of two students and two faculty members. The Appeals Board shall establish its own rules of procedure.

## **571-021-0240**

### **VI. Imposition of Sanctions, Adjudication of Contempt and Failure to Complete Assigned Sanctions**

**[This section of the code designates who has authority to impose a sanction, and outlines the responsibility of the student regarding the sanctions.]**

(1) A University Official or Student Organization that determines that an Accused Student violated the Student Conduct Code may impose sanctions authorized by this Code unless otherwise expressly limited. Sanctions are subject to appeal pursuant to this code ~~571-021-0250~~.

(2) A University Official responsible for making a determination if a student has violated this Code may declare a Student participant in contempt of adjudicative proceedings pursuant to this code ~~571-021-0120(1)(i)~~ and impose sanctions without complying with the procedures otherwise required in this Code. Adjudication of contempt and sanctions imposed are subject to appeal pursuant to this code. ~~571-021-0250~~. Imposition of sanction and the circumstances that gave rise to it shall be reported to the Director of Conduct and Community Standards.

(3) Failure to complete assigned sanctions. The University will use the procedures established by this section to enforce the timely completion of disciplinary sanctions issued under the Student Conduct Code.

(a) A Student who is found responsible for a Student Conduct Code violation and who receives a sanction will be informed orally by the Office of Student Conduct and Community Standards of the consequences of failing to complete the sanction. The Office of Student Conduct and Community Standards will also inform the student in writing of the consequences of failing to complete the sanction as part of the decision letter sent to the Student.

(b) If a Student fails to complete the disciplinary sanction by the assigned deadline, the Office of Student Conduct and Community Standards will send the Student a letter that states:

(A) The Student has five class days after the assigned deadline to provide verification to the Office of Student Conduct and Community Standards that the assigned sanction has been completed or the Student's record ability to register for classes, drop classes, or change grade options will be placed on hold;

(B) Once the Student's record is on hold, the hold will not be removed until the Office of Student Conduct and Community Standards has received verification that the Student has completed the sanction; and

(C) The Student is responsible for ensuring that the Office of Student Conduct and Community Standards receives verification of completion of the sanction.

(c) When a hold is placed on a Student's record, the Office of Student Conduct and Community Standards will inform the Student in a letter that the hold has been placed, the consequences of the hold, and the actions required to have the hold removed.

(d) The hold will be removed immediately once the Student provides verification of

Commented [SW57]: Section moved to a more logical placement in the code

completion of the sanction.

(e) A Student who is unable to register because the student has not completed a sanction may seek a waiver from the Office of Student Conduct and Community Standards. The Office of Student Conduct and Community Standards will grant a waiver, allowing the student to register, provided the Student agrees the Student's registration may be cancelled immediately and the hold reinstated if the Student has not completed the sanction by a deadline set by the Office of Student Conduct and Community Standards, in its sole discretion.

## 571-021-0215

### Section 4: Academic Misconduct Procedures

[This section of the code describes the process between the student suspected of misconduct and the University Official before the case is ~~taken up by~~ referred to the office of Student Conduct and Community Standards

Commented [SW58]: Changed for clarity.

- (1) Notice. Upon the discovery of suspected Academic Misconduct, as defined ~~in 571-021-0100(+)~~ in this code, the University Official with responsibility for the academic matter or the faculty member in whose course the incident occurred shall promptly notify the Student of the incident. This notice shall include a discussion of the option of having the case referred directly to the Director of Student Conduct and Community Standards.
- (2) If a Student admits to Academic Misconduct in a course, the faculty member shall impose an appropriate academic sanction up to and including a grade of "N" or "F" and report the incident to the Office of Student Conduct and Community Standards. Written notice of the sanction or resolution without sanction shall be given the Student. If, in the judgment of the faculty member, further disciplinary action is warranted, the report to the Director of Student Conduct and Community Standards shall so indicate. The Student may appeal the academic sanction to the faculty member's department head and, ultimately, to the dean of the college or school in which the incident originated.
- (3) If a Student admits to Academic Misconduct in a situation other than a course, the responsible University Official may determine and implement an appropriate response and report the incident to the Office of Student Conduct and Community Standards. Written notice of the sanction or resolution without sanction shall be given the Student. If, in the judgment of the University Official, further disciplinary action is warranted, the report to the Director of Student Conduct and Community Standards shall so indicate. The Student may appeal the academic sanction to the University Official's department head or director.
- (4) If a faculty member or University Official and a Student cannot agree as to whether Academic Misconduct has occurred, the University Official or faculty member will, not later than fourteen calendar days during which the University is in session after the date the faculty member or University Official notifies the Student, make a written referral of the case to the Office of Student Conduct and Community Standards for resolution. The case will then be

conducted in accordance with the procedures established in this Code.

(a) If there is a finding that the Student engaged in Academic Misconduct in a class, in addition to sanctions imposed through the regular student conduct procedures, the faculty member will assign an appropriate grade.

(b) If there is a finding that the Student did not engage in Academic Misconduct, no academic sanction may be imposed.

(5) Reporting Academic Misconduct. Regardless of the method of resolution, University Officials, including faculty members are required to file a written report of any Academic Misconduct with the Director of Student Conduct and Community Standards. These reports shall be treated as confidential and maintained consistent with the Student Records Policy, 571-020-0100 et seq.

(6) Withdrawing from a Course.

(a) If a Student's Academic Misconduct in a course results in an academic sanction, the student will not be permitted to drop or withdraw from the course, or to change the course's grading option, and shall be reinstated in the course if they have dropped or withdrawn.

(b) If a Student's Academic Misconduct does not result in an academic sanction, the Student may withdraw from the course or change the course's grading option at the later of:

(A) Expiration of the withdrawal deadline for the course;

(B) Expiration of the deadline for changing grade options; or

(C) Five business days after the student receives notification of the decision or termination of Student Conduct Code proceedings without sanction.

(c) In the event the Student is found not responsible for Academic Misconduct and the Student no longer feels comfortable returning to the class, the Office of Student Conduct and Community Standards will assist the student to attempt to remove the "w" from the transcript.

## 571-021-0220

### Section 5: Alternative Dispute Resolution

**Consistent with the primary mission of the Code to establish community standards and procedures that promote an environment conducive to learning by upholding academic standards and by respecting community members, alternative dispute resolution provides an opportunity for individuals affected by violations or alleged violations of this Code to resolve disciplinary matters among themselves, with or without findings of responsibility. Students who participate in a method of alternative dispute resolution and successfully fulfill their obligations may, upon completion of their obligations, have their student conduct record regarding the matter ~~voided.~~ ~~expunged.~~**

(1) Mediation. Mediation is encouraged as an alternative means to resolve allegations of Student Conduct Code violations, where appropriate, ~~except for sexual misconduct involving unwanted penetration or nonconsensual personal contact as set out in this code which shall not be subject to mediation.~~ The Director of Student Conduct and Community Standards will inform Complainants and Accused Students about the availability of mediation resources. The Director, in the exercise of the Director's sole discretion, may, except in cases of alleged Academic and Sexual Misconduct, decline to process a complaint until the parties make a reasonable attempt to

**Commented [SW59]:** Changed to use language consistent with this code.

**Commented [SW60]:** Change passed by the UO Senate. This change is supported by the Division of Student Life because it provides clarity that sexual assault cases will not be resolved through mediation. Rather, they will be resolved and adjudicated through the Student Conduct Process.

achieve a mediated resolution.

(a) To be binding under this Code, any mediated resolution must be approved by the Director of Student Conduct and Community Standards. Any agreement will be enforced by the Office of Student Conduct and Community Standards.

(b) Procedures for Alternative Dispute Resolution. Students wishing to pursue mediation shall notify the Director of Student Conduct and Community Standards within fourteen calendar days of receiving written notice of the violation pursuant to [this code-571-021-0200](#).

(c) The Director of Student Conduct and Community Standards may determine if an Accused Student must acknowledge responsibility as a condition of the Director's approval of a mediation option. If the Director requires an Accused Student to acknowledge responsibility as a condition to approving the mediation, the Director will not proceed until the Accused Student has provided the Director with that acknowledgement.

(d) The Director of Student Conduct will determine whether others affected by the alleged violation are willing to participate in mediation. Parties agreeing to mediation must sign a waiver allowing the Director to receive information from the mediator regarding the progress of the mediation.

(e) Once the necessary parties agree, the Director of Student Conduct and Community Standards will approve a mediator and set a date for a report from the mediator regarding progress. If the Director, in the Director's sole discretion, determines that mediation is unlikely to be successful, the Director may inform the necessary parties and initiate other procedures.

(2) Restorative Justice. Restorative Justice serves primarily as a diversion program for Accused Students who have acknowledged responsibility for a Code violation and who wish to remedy the effects of the violation.

(a) The Director of Student Conduct and Community Standards will consider approving Restorative Justice in the following circumstances:

(A) The Accused Student acknowledges responsibility for a the Code violation;

(B) There are clearly identifiable negative impacts on either individuals or the community resulting from the violation; and

(C) The Accused Student and those impacted by the incident agree to participate in Restorative Justice.

(b) A Restorative Justice outcome shall not be binding unless approved by the Director of Student Conduct and Community Standards. An agreement reached through Restorative Justice will be enforced by the Office of Student Conduct and Community Standards.

(3) The Director of Student Conduct and Community Standards may initiate procedures to make a determination of responsibility or, in the Director's discretion, to proceed pursuant to ~~571-021-0240~~ [this code](#), if an Accused Student who participates in alternative dispute resolution fails to fulfill an obligation or otherwise fails to comply with the approved resolution.

(4) Upon timely completion of a student's obligation arising from alternative dispute resolution, a student may provide to the Director of Student Conduct and Community Standards documentation of completion. If the Director of Student Conduct and Community Standards concludes the student fulfilled the student's obligation in a timely fashion, Director of Student Conduct and Community Standards will remove information regarding the violation from the student's record.

**571-021-0230**

## **Section 6: Emergency Action**

**[This section of the code describes the rights of the Director of Student Conduct and Community Standards to take Emergency action regarding the accused student when it is necessary to secure the health or safety of any persons.]**

(1) The Director of Student Conduct and Community Standards or his or her designee may take emergency action regarding a Student when immediately necessary to secure the health or safety of any persons and there is an alleged violation of the Student Conduct Code.

(2) Emergency Action includes, but is not limited to:

- (a) Immediate withdrawal of the Student from the University;
- (b) Restrictions on the Student's presence on University Premises or at University Sponsored Activities.

(c) Placing a hold on a student's record that will prevent registration would prevent the student from obtaining an official copy of the student's transcript.

**Commented [SW61]:** Added the ability to place holds as a part of an emergency action.

(3) The Director of Student Conduct and Community Standards may request that the Student secure a medical and psychological evaluation through the Student Health Center or at another facility at the Student's own expense. The evaluation may be used to determine the appropriateness of withdrawing the emergency action.

(4) When the emergency action takes place, the Director of Student Conduct and Community Standards or designee will:

- (a) Inform the Student and Complainant, if applicable, of the reason for the emergency action;
- (b) Give the Student and Complainant, if applicable, the opportunity to explain why emergency action ~~need~~ should or should not be taken;
- (c) Inform the Student and Complainant, if applicable, that a preliminary hearing will take place according to ~~Paragraph (5)~~ the procedures in this section and that the Student will be informed of its time, place, and date; and
- (d) Inform the Student and Complainant, if applicable, of the possible restrictions that may be imposed prior to an administrative conference.

**Commented [SW62]:** Added to ensure that the Complainant is able to participate in an equitable manner in an Emergency Action process

(5) The preliminary hearing shall take place within two business days of the emergency action.

At this hearing the Student shall have a full opportunity to demonstrate to the Director of Conduct and Community Standards that emergency action is not necessary pursuant to Paragraph

(1). The Student may be represented by a student advocate or other counsel. The Director will also consult with the Complainant, if applicable, who may also be represented by a student advocate or other counsel, during any consultation.

**Commented [rjr63]:** See Comment [SW 62] above.

(a) Based on the reasonable evaluation of the information presented at the preliminary hearing, the Director of Student Conduct and Community Standards shall notify the Student within 24 hours of the decision to:

- (A) Dissolve the emergency action and take no further action;
- (B) Dissolve the emergency action but proceed to an administrative conference; or

(C) Sustain or modify the emergency action until such time as a resolution is researched following an administrative conference.

(6) An emergency action shall be reviewed by Vice President for [Student Life's Designee](#) ~~Life or his or her designee~~ at the request of the Student no sooner than the next working day after the preliminary hearing. The review shall provide an opportunity for the Student to explain why an emergency action need no longer be imposed. Subsequent review of the same emergency action may be requested no more frequently than every ten days.

(7) If emergency restrictions on a Student's housing or enrollment are removed, the Student will not be assessed any fees for reinstatement.

## **Section 7: Student Conduct Process for Student Organizations**

### **Violations of Community Standards by Student Organizations Student Conduct Process for Student Organizations**

**When members of a Student Organization act together in a way that violates University Student Conduct Code, the Student Organization is expected to hold its members responsible for those violations.**

(1) When a potential violation of the Student Conduct Code by a Student Organization comes to the University's attention, the Office of Student Conduct and Community Standards may review the incident to determine the appropriate process for resolution. Generally, the University will expect a Student Organization to hold itself accountable for the acts of its members when those acts are related to the Student Organization's activities.

(a) The Student Organization or its governing body will notify the Office of Student Conduct and Community Standards and keep it informed at all stages of the process.

(b) The University, through the Office of Student Conduct and Community Standards, reserves the right to take immediate jurisdiction at its discretion. The student organization or governing body may still hold its members accountable in the situation, but must do so in conjunction with the Office of Student Conduct and Community Standards.

(2) If sufficient action is not taken in a timely manner by the student organization to correct a violation of University standards, individuals may file grievances with the appropriate governing body, or, if none exists, with the Office of Student Conduct and Community Standards.

(3) If, in the judgment of the Vice President of Student Life's designee, sufficient action is not taken in a timely manner by the governing body, the case will be referred to the Office of Student Conduct and Community Standards.

(4) In deciding whether the group is responsible for the violation, the University will consider whether the following factors are present:

(a) The violation arises out of a group-sponsored, organized, financed, or endorsed event;

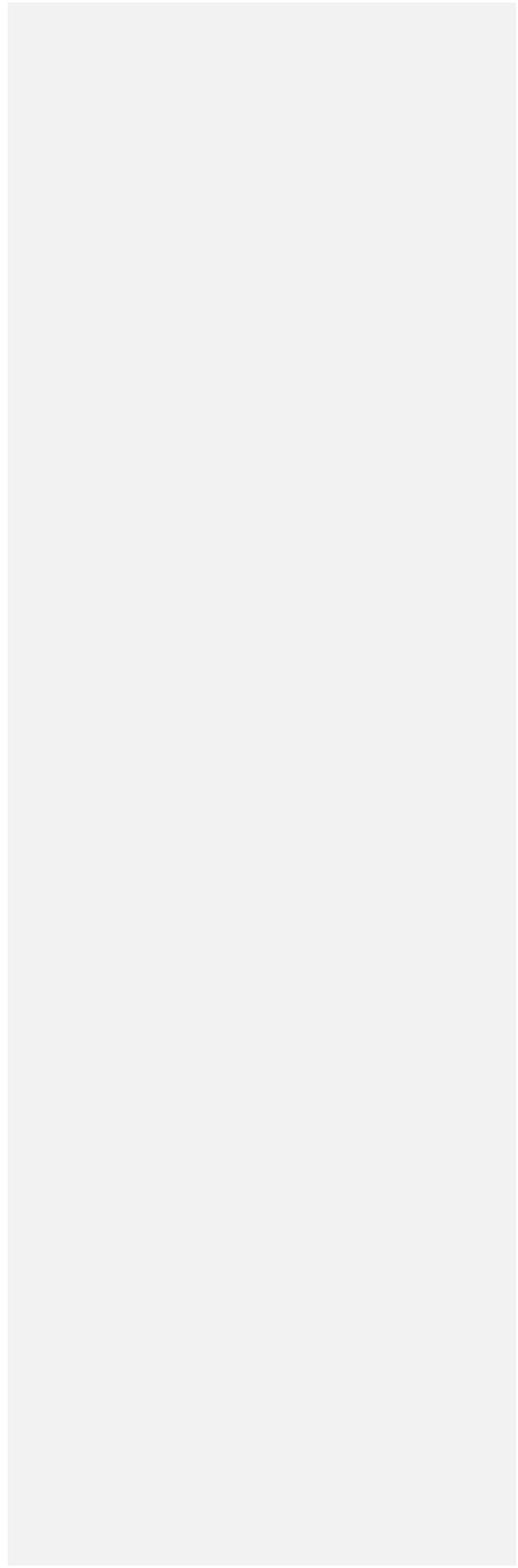
Commented [SW64]: Moved to a more logical section of the code

- (b) The organization provides the impetus for the violation;
- (c) The violation occurs on the premises owned or operated by the group;
- (d) A group leader has knowledge of the violation being likely to occur before it occurs and fails to take corrective action; or
- (e) A pattern of individual violations is found to have existed without proper and appropriate group control, remedy, or sanction.

1

**EXHIBIT B:**

**Clean version of new proposed changes with comments**



## STUDENT CONDUCT CODE (Draft 5/24/2015)

All revisions to Student Conduct Code procedures, including but not limited to jurisdictional revisions, shall apply retroactively to pending Student Conduct complaints, filed on or after September 11, 2014

**Commented [rjr1]:** Added upon advice of General Counsel to ensure that this revised code applies in all cases currently being processed that were filed after the Board of Trustees made temporary changes on September 11, 2014.

### Section 1: Student Conduct Policies

**Commented [SW2]:** Added to be consistent with practice

#### I. Mission

1. The primary mission of the Student Conduct Code is to set forth the community standards and procedures necessary to maintain and protect an environment conducive to learning and in keeping with the educational objectives of the University of Oregon. Founded upon the principle of freedom of thought and expression, an environment conducive to learning is one that preserves the freedom to learn -- where academic standards are strictly upheld and where the rights, safety, dignity and worth of every individual are respected.
2. Learning is a process defined by the exchange of ideas and the advancement of knowledge. As such, learning entails a community of scholars united by their participation in, and commitment to, intellectual exchange. The University is, first and foremost such a community. Learning also involves reflecting on decisions and improving decision-making in the future. By establishing the standards of this community, the Student Conduct Code serves not just as a disciplinary system, but also as a part of the educational system. Hence, a corollary mission of the Student Conduct Code is to teach students to live and act responsibly in a community setting, with respect for the rights of other students and members of that community, and for the property, common resources, code of conduct, and laws associated with that community, and to encourage the development of good decision-making and personal integrity.
3. Students are simultaneously members of the University community and the broader community (e.g. city, state, nation, and world). The Student Conduct Code, and the processes of its administration and enforcement, is directed specifically toward maintaining the standards of the University community. Within its jurisdiction the University may impose disciplinary sanctions against students or student organizations when their conduct materially interferes with the educational objectives of the University or university community member.

## II. Definitions

For purposes of the Student Conduct Code;

(1) “Academic Misconduct” means the violation of university policies involving academic integrity. Examples include, but are not limited to:

- (a) Intentional tampering with grades, resubmitting assignments for more than one class without the permission of the professor; and
- (b) Intentionally taking part in obtaining or distributing any part of a test that has not been administered;
- (c) Cheating, as defined in this code
- (d) Plagiarism, as defined in this code
- (e) Knowingly furnishing false information to a University Official; and
- (f) Fabrication, as defined in this code

(2) “Accused Student” means any student accused of violating the Student Conduct Code.

(3) “Cheating” means any act of deception by which a student misrepresents or misleadingly demonstrates that the student has mastered information on an academic exercise that the student has not mastered. Examples include but are not limited to:

- (a) Giving or receiving unauthorized help in an academic exercise;
- (b) Use of sources or resources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
- (c) Acquisition, without permission, of tests or other academic material belonging to a member of the University faculty or staff; and
- (d) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

(4) “Community Standards Administrator” means the University official, as designated on a case-by-case basis by the Director of Student Conduct and Community Standards, authorized to impose sanctions upon any student found to have violated the Student Conduct Code.

(5) “Community Standards/ Student Conduct Committee” means the Committee established pursuant to this Code, comprised of persons appointed by the President with the responsibility for formulating, approving or recommending changes related to the Student Conduct Program.

(6) “Complainant” means any person who submits a complaint alleging that a student violated the Student Conduct Code. The Complainant need not be a person who was the target or victim of the alleged violation.

(7) “Contacting” has its common meaning. It includes, but is not limited to, communicating with or remaining in the physical presence of the other person.

(8) “Contact of a Sexual Nature” for purposes of Sexual Misconduct in the Student Conduct Code means the touching of the genitalia, anus, buttocks or breasts of a person or causing such person to touch the genitalia, anus, buttocks or breasts of another.

(9) “Contempt” means disregard of, or disobedience to, the rules or orders of any process under this Code or an interruption of its proceedings by disorderly behavior or insolent language in a way or place that disturbs the proceedings or ignores the authority of the tribunal.

(10) “Director of Student Conduct and Community Standards” is the person designated by the University Senate, Board of Trustees and University President or designee to be responsible for

Commented [SW3]: Removes gendered pronouns

Commented [SW4]: Removes gendered pronouns

Commented [SW5]: In line with current name of the committee

Commented [SW6]: The Student Conduct Process is based on an educational and developmental model for an administrative process, rather than an adversarial model based on the criminal process. This language was changed to make the code language more consistent with our practice.

the administration of the Student Code.

(11) “Drug” means a controlled substance or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C.811 to 812 or as defined in ORS475.005 or modified in ORS475.035.

(12) “Explicit Consent” for purposes of Sexual Misconduct in the Student Conduct Code means voluntary, non-coerced and clear communication indicating a willingness to engage in a particular act. “Explicit consent” includes an affirmative verbal response or voluntary acts unmistakable in their meaning.

(13) “Fabrication” means the intentional use of information that the author has invented when the student states or implies otherwise, or the falsification of research or other findings with the intent to deceive.

Commented [SW7]: Removed gendered pronouns

(14) “Faculty Member” means a person hired by the University to conduct classroom, research or teaching activities or who is otherwise considered by the University to be a member of its faculty, including officers of instruction, officers of research and officers of administration.

(15) “Gambling” means an activity in which a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. “Gambling” does not include those activities expressly excluded by ORS167.117.

(16) “Harassment” means

(a) Intentionally subjecting a person to offensive physical contact;  
 (b) Unreasonable insults, gestures, or abusive words, in the immediate presence, and directed to, another person that may reasonably cause emotional distress or provoke a violent response (including but not limited to electronic mail, conventional mail, social media and telephone) except to the extent such insults, gestures or abusive words are protected expression; or

Commented [SW8]: Added to reflect the modern types of harassment/behavior seen by SCCS

(c) Other types of prohibited discrimination, discriminatory harassment, and sexual harassment as defined by law.

(17) “Hazing” means any initiation rites, on or off campus, involving any intentional action or situation that a reasonable person would foresee as causing mental or physical discomfort, embarrassment, or ridicule. Individual acceptance of or acquiescence to any activity that occurs during an initiation rite does not affect a determination of whether the activity constitutes hazing. Activities and situations that may occur as part of hazing include, but are not limited to:

- (a) Sleep deprivation or causing excessive fatigue;
- (b) Physical or psychological shock;
- (c) Public stunts or jokes;
- (d) Compelled ingestion of any substance;
- (e) Degrading or humiliating games or activities;
- (f) Activities that have an adverse effect on academic progress;
- (g) Forced servitude;
- (h) Activities which are not consistent with the parent organization's rules and regulations; or
- (i) Other activities which violate Federal, State, or local laws.

(18) “Institution” means the University of Oregon and all of its undergraduate, graduate and professional schools, divisions, activities and programs and may be used interchangeably with “University.”

(19) “May” is used in the permissive sense.

(20) “Mental Disorder” for purposes of Sexual Misconduct in the Student Conduct Code means that a person suffers from a mental disease or disorder that renders that person incapable of appraising the nature of the conduct of another person.

(21) “Mental Incapacitation” for purposes of Sexual Misconduct in the Student Conduct Code means that a person is rendered incapable of appraising or controlling one’s own conduct at the time of the alleged offense because of the influence of a controlled or intoxicating substance or because of any act committed upon the person without consent.

(22) “Member of the University Community” includes any person who is a student, faculty member, University official or any person employed by the University.

(23) “Penetration” for purposes of Sexual Misconduct in the Student Conduct Code means any degree of insertion, however slight, of the penis or any object into the vagina or anus, or the penis into the mouth.

(24) “Physical Helplessness” for purposes of Sexual Misconduct in the Student Conduct Code means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to engage in an act.

(25) “Plagiarism” means using the ideas or writings of another as one’s own. It includes, but is not limited to:

- (a) The use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement; and
- (b) The unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(26) “Policy” means the written regulations of the University. Examples of where written policies may be found include, but are not limited to:

- (a) The Student Conduct Code;
- (b) Residence Life Contract;
- (c) Information posted by the University on its web pages;
- (d) Computer Acceptable Use Policy;
- (e) Living Group Alcohol policy;
- (f) Greek Social Policy;
- (g) Graduate/Undergraduate Catalog;
- (h) Student Handbook; and
- (i) University and Oregon University System Oregon Administrative Rules.

(27) “President” means the University President.

(28) “Shall” and “will” are used in the imperative sense.

(29) “Sexual Misconduct” means:

- (a) Unwanted Penetration is Penetration of another person, or causing the Penetration of another person, when one:
  - (A) Does not first obtain Explicit Consent from that person; or
  - (B) Knows or should have known the person was incapable of explicit consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.
- (b) Nonconsensual personal contact occurs when a student subjects another person to contact of a sexual nature when a reasonable person would know that such contact would cause emotional distress:
  - (A) Without having first obtained Explicit Consent; or
  - (B) When he or she knows or should have known the person was incapable of explicit

consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.

(c) Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that interferes with work or academic performance because it has created an intimidating, hostile, or degrading environment and would have such an effect on a reasonable person of the alleged complainant's status when the conduct is unwelcome and sufficiently severe or pervasive that it deprives that person of benefits of the University's educational environment.

(d) A single episode of behavior that meets (a), (b), or (c) can be sufficient for a finding of sexual misconduct.

(30) "Student" means any person who has student status pursuant to Section IV (Jurisdiction) of this code.

(31) "Student Organization" means any group of University of Oregon students meeting criteria for group recognition established by the University.

(32) "University" means the University of Oregon and all of its undergraduate, graduate and professional schools, divisions, activities and programs and may be used interchangeably with "institution."

(33) "University Appeals Board" means the person or persons authorized by this Code to consider an appeal from the outcome of an administrative hearing conference.

(34) "University Official" means a person having assigned University responsibilities who is performing their University assignment.

(35) "University Premises" includes all land, buildings or grounds owned, leased, operated, controlled or supervised by the University including adjacent sidewalks and streets.

(36) "University Sponsored Activity" means any activity, including activities sponsored or organized by recognized student organizations, on or off University premises that is directly initiated or supervised by the University.

(37) "Unwanted Contact" means repeated or persistent contact or attempts to contact another person when the contacting person knows or should know that the contact is unwanted by the other person; and

(a) The contact would cause a reasonable person fear of physical harm; or

(b) The contacting person knows or should know that the contact substantially impairs the other person's ability to perform the activities of daily life.

### III. Delegations and Authority

**The Board of Trustees of the University of Oregon delegates authority for administering this Code and the Student Conduct program as provided below:**

(1) The Director of Student Conduct and Community Standards shall develop policies for the administration of the student conduct system and procedural that are consistent with provisions of the Student Conduct Code.

(a.) Consistent with this code the Vice President for Student Life's designee may serve ad

**Commented [SW9]:** Additional language proposed and passed by UO Senate. The Division of Student Life agrees with this change because it is crucial that the code makes it clear that a single incident of sexual misconduct is enough to be found responsible for an allegation.

**Commented [SW10]:** Changed to make consistent with our process. All cases are heard by an administrative conference rather than a hearing

hoc in place of the Director of Student Conduct and Community Standards.

(2) ~~The Community Standards~~ The Student Conduct Committee shall be responsible for recommending to the Board of Trustees of the University of Oregon policy or administrative changes in any aspect of the Student Conduct Program.

(a) The Committee shall be appointed by the President and shall consist of four faculty members to be recommended by the Committee on Committees and four student members to be recommended by the ASUO. Faculty and student members shall serve staggered, two-year terms and may be reappointed, up to three consecutive terms, or a maximum of six consecutive years. The President may appoint temporary members to assure full Committee membership during summer session or at such other times as are necessary.

(b) The Director of Residence Life or designee, the Director of Student Conduct and Community Standards and the Director of the Office of Student Advocacy shall be non-voting, ex-officio members of the ~~Student Conduct Committee~~.

(3) Sub-delegation of Authority to ~~alternative processes and hearing officers~~.

(a) With the consent of the President of the University, the ~~Community Standards Committee~~ may sub-delegate jurisdiction to handle violations of the Student Conduct Code to University officials, committees or ~~alternative processes~~. In all instances such sub-delegation shall be defined by the Committee in terms of specific jurisdiction, enforceable regulations, and maximum disciplinary sanctions that may be imposed.

(b) Subject to approval by the President, the ~~Community Standards Committee~~ sub-delegates to the Interfraternity Council, Panhellenic Council, Club Sports Executive Committee, and Residence Hall Association the authority to formulate:

(A) Regulations governing the conduct of their respective organization members;

(B) Hearing procedures and administrative practices to be followed by their respective ~~tribunals~~ process;

(C) Disciplinary sanctions exclusive of expulsion, suspension, eviction or negative notation on transcript appropriate to the enforcement of their respective regulations; and

(D) Procedures for publication and notification to affected students of such regulations, hearing procedures and disciplinary sanctions.

(c) All such regulations, hearing procedures, and disciplinary sanctions shall be reduced to writing and approved by the ~~Student Conduct Committee~~ prior to implementation.

(d) The authority granted to ~~alternative processes and their respective governing bodies~~ is conditional and may be withdrawn at any time by the ~~Community Standards Committee~~ when a is either unable or unwilling to assume its responsibilities as part of the University's Student Conduct Program.

**Commented [SW11]:** Changed to reflect the current name of the committee

**Commented [SW12]:** Changed to reflect the current name of the committee

**Commented [SW13]:** The Student Conduct Process is based on an educational and developmental model for an administrative process, rather than an adversarial model based on the criminal process. Each instance of this language was changed to make the code language more consistent with our practice and to reflect the educational philosophy of the Office of Student Conduct and Community Standards, removing "judicial" terminology

**Commented [SW14]:** See note [SW15] above.

**Commented [SW15]:** See note [SW15] above.

**Commented [SW16]:** Changed to reflect the current name of the committee

**Commented [SW17]:** See note [SW15] above.

## IV. Jurisdiction

**Jurisdiction describes where and when the Student Conduct Code applies.**

(1) Jurisdiction over types of actions and events. The Student Conduct Code applies to actions by Students that materially interfere with:

(a) An educational opportunity of a University community member;

(b) The health and safety of any person;  
 (c) The maintenance or protection of University property or personal property located on campus;

(d) University record keeping;  
 (e) University living accommodations and other services; or  
 (f) University sponsorship or supervision of non-classroom activities such as lectures, concerts, athletic events and social functions.  
 (2) Jurisdictional boundaries.

(a) On-Campus. The Student Conduct Code routinely applies to actions which occur on University Premises or at a University Sponsored Activity.

(b) Off-Campus. The University extends jurisdiction without exception to off-campus sexual misconduct that consists of unwanted penetration or non-consensual personal contact as defined in Section 1, II (29) of this code. The University shall have discretion to extend jurisdiction over conduct that occurs other than on University Premises or at a University Sponsored Activity. In determining whether or not to extend jurisdiction, the University will consider its ability to gather information, including testimony of witnesses. The University may extend jurisdiction if the alleged conduct would have violated the Student Code of Conduct if the conduct had occurred on campus; and:

- (A) Adversely and significantly affects the learning or living environment; or
- (B) Involved violence or produced a reasonable fear of physical harm; or
- (C) Involved academic work or any records, documents, or identifications of the University.

(3) Student Status. An individual's status as a "student" is established by:

(a) An application for admission, housing, financial aid, or any other service provided by the University which requires student status;  
 (b) Registration for one or more credit hours; or  
 (c) Enrollment in a special non-credit program approved by the University.

(4) Jurisdiction over non-enrolled students. Jurisdiction is maintained between periods of enrollment unless the accused individual's official record in the Office of the Registrar shows a complete withdrawal prior to the expiration of the published deadline for registration for the succeeding period of enrollment. For students enrolled in the spring term, jurisdiction is maintained until the expiration on the published deadline for registration for the succeeding fall term.

(a) If a student withdraws from the University after a Student Conduct complaint has been initiated, the University will maintain jurisdiction over the conduct matter until it is fully processed.

(b) Allegations of sexual misconduct, academic dishonesty or fraudulently obtaining a degree may be filed at any time, whether or not the student is currently enrolled or registered.

(5) The University has jurisdiction to address all conduct that would have violated the terms of the Student Conduct Code while the student was enrolled, if the conduct occurred from the date

the Student is admitted to the University until the Student graduates or otherwise completely withdraws from the University, as described above, even if the conduct is not discovered until after the student completely withdraws or graduates

(6) Allegations of sexual misconduct, academic dishonesty or fraudulently obtaining a degree may be considered at any time regardless when the alleged misconduct occurred.

(7) Students may be accountable both to civil and criminal authorities and to the University for behavior that constitute violations of the law and the Student Conduct Code. Since the action of civil and criminal authorities is independent from University action, the University may decide whether to initiate or consider an alleged violation of the Student Conduct Code while criminal charges are pending or before they are filed or after they are resolved.

**Commented [SW18]:** Proposed change to clarify and strengthen language that ensures that the University has jurisdiction to move forward and resolve all cases that occurred when a student was an enrolled student.

**Commented [SW19]:** Proposed changed, passed by the UO Senate. This change is necessary and supported by the Division of Student Life because of the unique and tangible impact that sexual misconduct can have on a student's ability to be able to fully participate in the University experience.

## V. Student Conduct Code Violations

**The following conduct violates the community standards that are essential to the core educational mission of the University of Oregon and subjects a Student or Student Organization to sanctions under the Student Conduct Code: (see Section 1, I for definitions)**

**Commented [SW20]:** Changed to clarify language, and make the code easier to understand for students.

(1) Standards Relative to Academic and Personal Integrity. Integrity is a bedrock value of the University community and includes respect for open and honest intellectual exchange as well as respect for University records and for the Student Conduct Code itself. The following conduct violates standards of academic integrity:

- (a) Cheating
- (b) Fabrication
- (c) Plagiarism;
- (d) Academic misconduct
- (e) Intentionally furnishing false information to a University Official;
- (f) Forgery, alteration or unauthorized use of University documents, records, keys student identification, keycards or services;
- (g) Creation or distribution of false identification;
- (h) Failure to comply with the terms of any sanction imposed in accordance with the Student Conduct Code; or
- (i) Contempt of adjudicative proceedings including impairing or interrupting the due course of proceedings in the presence of any process created under this Code. Adjudication of contempt and imposition of sanctions may be imposed summarily consistent with procedures outlined in this code

**Commented [SW21]:** Changing to be consistent with new code numbering system

**Commented [SW22]:** See note [SW15] above.

(2) **Standards Relative to Respect for Property and for Shared University Resources.** The following conduct violates standards of respect for property and shared University resources:

(a) Engaging in behavior that could reasonably be foreseen to cause disruption of, obstruction of, or interference with the process of instruction, research, administration, student discipline, or any other service or activity provided or sponsored by the University;

(b) Damage, destruction, theft, or unauthorized use of property located on the University campus or property owned or controlled by the University;

(c) Unauthorized entry into or use of University property or University-recognized living units, facilities, residence halls, equipment, or resources;

(d) Disorderly conduct (including that resulting from the use of alcohol), unreasonable noise, or conduct that results in unreasonable annoyance;

(e) Failure to comply with the reasonable directions of public officials acting in performance of their duties on University Premises or at a University Sponsored Activity when such conduct poses a danger to personal safety or property or obstructs or impairs educational or other Institutional activities;

(f) Violation of University Policy on the acceptable use of computing and network resources. Unacceptable uses of computing resources include, but are not limited to:

(A) Use of electronic forums to violate other sections of the Student Conduct Code;

(B) Sharing of accounts or computer lab passes;

(C) Violation of electronic privacy;

(D) Interference with computer use or operations;

(E) Commercial or illegal use of electronic or computer resources;

(F) Violation of copyright law; or

(G) Threats, abuse or Harassment, as defined in in this code made or transmitted via electronic forums, social media platforms or electronic mail.

**Commented [SW23]:** Changed to reflect modern realities of student use of University computing resources

**Commented [SW24]:** Changed to reflect modern realities of student use of University computing resources

**(3) Standards Relative to the Rights of Individuals and to the Welfare of the University Community. An environment conducive to learning is one where the rights, safety, dignity and worth of every individual are respected. The following conduct endangers such an environment, and threatens the welfare of the University community as a whole:**

(a) Physical contact that endangers, threatens, or harms the health or safety of any person or behavior that causes a reasonable person to fear such contact;

(b) Hazing, as defined in this code

(c) Possession, use, or threatened use of a weapon, ammunition, or any object or substance used as a weapon on University Premises or at a University Sponsored Activity unless expressly authorized by law or University Policy. A concealed weapons permit does not constitute authorization;

(d) Unauthorized possession, use, or threatened use of dangerous chemical or biological substances or explosives;

(e) Tampering with fire-fighting equipment, turning in a false alarm, or engaging in conduct that constitutes a significant fire hazard;

(f) Harassment, as defined in ~~§71-021-0105(17)~~, this code because of another person's race, ethnicity, color, gender, gender identification, national origin, age, religion, marital status, disability, veteran status, sexual orientation, or for other reasons, including but not limited to

harassment prohibited by University Policy.

(g) Unwanted Contact, as defined in ~~571-021-0105(38)~~; in this code

(h) Sexual Misconduct. ~~A mission of the Student Conduct Code is to encourage good decision-making, personal integrity, and interpersonal behavior that is cooperative rather than coercive and that respects the rights of others. Sexual misconduct violates these values, and is committed when a student engages in sexual behavior described in 571-021-0105(30). As defined in this code~~

~~(A) A complaint alleging Sexual Misconduct may be filed whenever Sexual Misconduct:~~

~~(i) Materially interferes with another person's academic performance or participation in a University Sponsored Activity, or performance of University employment;~~

~~(ii) Is committed on University Premises or at a University Sponsored Activity; or~~

~~(iii) Demonstrates reasonable threat to the health or safety of a Member of the University Community or the alleged student survivor.~~

~~(B)~~ (A) Sexual gratification or pleasure of any party involved is not relevant to a determination of whether Sexual Misconduct occurred.

~~(C)~~ (B) A violation of provisions of the alcohol or drug policy in the Student Conduct Code does not affect a person's ability to file a complaint regarding another person's Sexual Misconduct on the same occasion.

~~(D)~~ (C) Consent to one form of sexual activity does not automatically operate as explicit consent to any other form sexual activity. A "no" always means that explicit consent is not present, whereas a "yes" to one act at one time does not mean "yes" to other acts or to the same act at other times. Voluntarily making oneself incapacitated does not mean one is giving explicit consent to any form of sexual activity.

(j) Prohibited alcohol use, which includes:

(A) Possession or consumption of alcohol by those under 21 years of age on University Premises or at a University Sponsored Activity;

(B) Furnishing of alcohol to a person under 21 years of age; or

(C) Consumption of an alcoholic beverage by a person at least 21 years of age or furnishing of an alcoholic beverage by or to a person at least 21 years of age, except in such areas and at such times as the University authorizes.

(k) Prohibited drug use, which includes:

(A) Manufacture, processing, distribution, or cultivation of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity, except as expressly permitted by both State and Federal law;

(B) Sale of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity; or

(C) Possession of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity except as expressly permitted by law.

(l) Lewd or indecent conduct on University Premises or at a University Sponsored Activity. Lewd or indecent conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record that would be an invasion of privacy pursuant to ORS163.700. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(m) Gambling, as defined and prohibited in ORS167.108 to 167.164 except as authorized by ORS464.270 to 464.530.

**Commented [SW25]:** Proposed change, passed by the UO Senate. This change is supported by the Division of Student life because it allows the Office of Student Conduct and Community Standards to be more responsive to allegations so sexual misconduct. This is also consistent with the guidance from the Office of Civil Rights in their 2011 Dear Colleague Letter.

**Commented [SW26]:** This section would be removed by a proposed change, passed by the UO Senate. The goal of the Senate was to remove hurdles required to file a formal complaint alleging sexual misconduct. This change also reflects the extended jurisdiction of the student conduct code.

**Commented [SW27]:** Added to acknowledge the differences between State and Federal law regarding Marijuana.

## VI. Sanctions

The University utilizes an educational sanctioning model; administrators will make every attempt to provide an educational sanction that will help a student to make better choices in the future. The educational sanction applied will become progressively more demanding if the student repeats violations, demonstrating that learning has not taken place. An accumulation of a variety of violations including sexual assault may result in severe sanctions such as suspension, expulsion or negative notation on a transcript. Academic dishonesty and violations affecting the health, safety and well being of anyone are deemed the most severe and may result, upon the first violation, in a negative notation being placed on a transcript, suspension, or expulsion.

### (1) Forms of Sanctions

(a) Expulsion. Student status is severed permanently. A Student who has been expelled from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises.

#### (b) Suspension.

(A) Individual Suspension. Student status is severed for a specified period. A student who has been suspended from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises during the period the student is suspended.

(B) Group Suspension. A Student Organization loses University recognition and all privileges associated with such recognition for a specified period. Imposition of this sanction against the ASUO or a recognized Student Organization requires approval by the Vice President for Student Life's designee.

(c) Negative Notation on Transcript. Entry of the fact of violation on the Student's permanent academic record as the sole or an additional sanction may be imposed at the discretion of the hearing officer administrator. After the expiration of the period of time, if any, set by the hearing officer, the notation shall be removed upon the request of the Student or former Student.

(d) Revocation of Degree. An academic degree previously awarded by the University may be revoked if it was obtained by fraud or a significant part of the work submitted in fulfillment of, and indispensable to, the requirements for such degree constitutes Plagiarism. The Academic Requirements Committee may, upon appeal of a University graduate subjected to degree revocation, stipulate the requirements for obtaining a degree.

(e) Grade Penalty. A Student admitting Academic Misconduct or found responsible for Academic Misconduct is subject to a grade penalty as determined by the instructor in the course in which the violation occurred.

(f) Disciplinary Probation. In lieu of another sanction, a period of probation may be imposed during which any violations of the Student Conduct Code will result in more serious sanctions than might be otherwise imposed. A Student or Student Organization on probation may or may not lose designated privileges during the period of probation. During the time on probation, a Student or Student Organization may, by demonstrating good conduct, avoid additional sanctions. Imposition of this sanction against the ASUO or an ASUO-recognized group requires

**Commented [SW28]:** Changed to reflect the titles SCCS uses in practice

**Commented [SW29]:** Change Passed by UO Senate to address the serious nature of allegations of sexual assault.

**Commented [SW30]:** Change Passed by the UO Senate. This change is supported by the Division of Student Life because severe conduct (such as sexual assault) that is committed by a UO student can and should affect a student's ability to be a part of the UO Community. This should not be contingent upon whether the victim of that offense is a member of the UO community.

**Commented [rjr31]:** Added to all instances in the Code to ensure compliance with OCR and VAWA and to ensure that cases can move forward at all times.

**Commented [SW32]:** Changed to reflect the titles SCCS uses in practice

approval by the Vice President for Student Life's designee

(g) Restitution. The Student or Student Organization is required to replace or restore damaged, stolen, or misappropriated property.

(h) Educational Activity. The Student or Student Organization is required to complete a project or activity designed to help the Student or Student Organization understand why the behavior was inappropriate and encourage future compliance with the Student Conduct Code. The educational activity is designed to correspond to the severity and nature of the violation and to clarify the impact of that behavior on Members of the University Community. Educational activities may include, but are not limited to, assessments of substance abuse and other behaviors, community service, workshops, papers and similar assignments. **An educational activity will not normally be used alone for cases of unwanted penetration or nonconsensual physical contact; it should only be used in conjunction with more serious sanctions, including reprimands, notations on transcripts, and expulsions.**

**Commented [SW33]:** Change passed by UO Senate and supported by the Division of Student Life because this language make it exceptionally clear that sexual assault will not be tolerated on the UO campus, and that the most significant sanctions that the University has available will always be considered in these cases.

(i) Loss of Privileges. The Student or Student Organization is denied specified privileges normally associated with Student Status or recognized Student Organization status, such as participation in or sponsorship of University activities, use of University facilities or services, or living in University-owned or supervised housing. Imposition of this sanction against the ASUO an ASUO-recognized group requires approval by the Vice President of Student Life's designee.

(j) Conduct Reprimand. The Student or Student Organization is given written notice that the conduct engaged in is inconsistent with University standards and expectations and informed that future violations of the Student Conduct Code may result in the imposition of more serious sanctions.

(k) Suspended Sanction. The execution of any sanction authorized under the Student Conduct Code may be suspended. When suspending a sanction, a time limit for the suspension period shall be designated, and subsequent violations of the Student Conduct Code that will terminate the suspension and result in the imposition of the original sanction shall be specified. In the absence of any such violation, the original sanction shall be deemed completed at the end of the suspension period.

(2) Medical Leave. Actions taken pursuant to University policies on medical leave shall not be deemed disciplinary sanctions within the meaning of the Student Conduct Code.

(3) Failure to complete a sanction will be handled pursuant to Processes found in this code.

## Section 2: Student Rights

**Procedural fairness is basic to the proper enforcement of all University regulations.**

**Accordingly, no disciplinary action shall be initiated or sanction imposed against a Student or Student Organization until they have been notified in writing of the complaints against them and their rights under this Code, and given the opportunity to be heard.**

**Complainants shall also be accorded certain accommodations, as provided below.**

- (1) Regulations and disciplinary sanctions affecting the conduct of all Students shall be based on general principles of equal treatment.
- (2) The Director of Student Conduct and Community Standards shall insure that the best interests of Students and Student Organizations are served, regardless of whether disciplinary action is taken, by making full use of appropriate medical, counseling and other professional services at the University, or if necessary by making referrals to community resources. For purposes of this Division, the Director may authorize another staff member to carry out any of the Director's responsibilities unless expressly prohibited from doing so.
- (3) Students shall have an opportunity to participate in the formulation of all regulations and policies pertaining to the Student Conduct Code at the University of Oregon.
- (4) All University regulations and policies pertaining to student discipline shall be published, distributed, or posted in such a manner as to furnish adequate notice of their contents to Students or Student Organizations.
- (5) Students accused of violations of the Student Conduct Code can expect the following procedural protections:
- (a) To be informed of the complaint and alleged misconduct upon which the complaint is based;
  - (b) To appear before the Director of Community Standards or their designee in an administrative conference, as outlined at in this code.
  - (c) To be allowed reasonable time to prepare for the conference.
  - (d) To be informed of the information upon which a complaint is based and accorded an opportunity to offer a relevant response;
  - (e) To propose relevant witnesses and submit suggested questions to the Director
  - (f) To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act and Oregon law.
  - (g) To request that any person conducting a disciplinary conference be disqualified on the ground of personal bias.
  - (h) To be considered not responsible for the alleged conduct until proven responsible by a preponderance of the information.
  - (i) To have an adviser of their choice present at the conference provided that the advisor's schedule does not unreasonably delay the conference. The director shall determine what constitutes an "unreasonable" delay.
- (6) A student accusing another student of a violation of the Student Conduct Code can expect the following procedural accommodations:
- (a) To be allowed reasonable time to prepare for any participation in the conference;
  - (b) To be accorded the opportunity to offer a relevant response to any assertions made;
  - (c) To propose relevant witnesses and submit suggested questions to the Director;
  - (d) To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act and Oregon law;
  - (e) To request that any person conducting a disciplinary conference be disqualified on the ground of personal bias;
  - (f) To be protected against retaliation for filing a complaint;

Commented [SW34]: Changed to adhere with current student conduct practice

(g) To have an advisor of their choice present at the conference provided that the advisor's schedule does not unreasonably delay the proceeding. The Director shall determine what constitutes an "unreasonable" delay;

(h) Upon request in the case of sexual misconduct, to be present in a separate room instead of the same room as the accused student.

**Commented [SW35]:** Change passed by the UO Senate. Changes in this section are supported by the Division of Student life because they ensure that both complainants and respondents have equal procedural rights in the student conduct process. These changes are also crucial for the code to be compliant with guidance from the Federal Government, both in the updates to the Violence Against Women act, and in response to guidance from the Office of Civil Rights regarding enforcement of Title IX.

## Section 3: Administration of the Student Conduct Process

### I. Administrative Policies

**[This section of the code designates who is in control of the Conduct Process, and how the code and cases are administered.]**

**Commented [SW36]:** Changes to reflect that Student Conduct is referred to as a process rather than a system

(1) Disciplinary Records and Files. Case referrals will result in the development of a disciplinary file in the name of the accused student. If the Student is found not responsible for the complaints, the disciplinary file will become void.

(a) Voided files will be so marked and shall not result in a disciplinary record. Voided files will normally be destroyed after one year. Where a Student files a conduct complaint against another Student, a file shall be created for both Students.

(b) Disciplinary records may be voided by the Director of Conduct and Community Standards for good cause, upon written petition from the student. Factors to be considered in review of such petitions shall include:

(A) The conduct of the Student subsequent to the violation; and

(B) The nature of the violation and the severity of any damage, injury, or harm resulting from it.

(2) Student Conduct Reports.

(a) The Community Standards Committee shall require from University officials, hearings boards, referees, committees and tribunals periodic written reports of the disposition of all student conduct cases dealt with under their jurisdiction. The Committee shall examine such reports for consistency with existing policies and, when necessary, review the reports with the appropriate officials or tribunals.

(b) At the end of each academic year, the Committee shall submit to the Board of Trustees President, University Senate, Deans, Department Heads, the ASUO President, and the Office of Student Advocacy, a written report covering the entire Student Conduct Program, including an evaluation of the existing rules, policies, and enforcement procedures. This report shall also detail all Code revisions approved during the previous year and shall be available to any person upon request.

(3) Director of Student Conduct and Community Standards.

(a) The President of the University shall designate a Director of Student Conduct and Community Standards who shall have primary responsibility for administering the Student Conduct Program and coordinating the activities of all University officials, hearing officers,

referees, committees, or tribunals that are concerned with the Community Standards Program.

(b) The Director shall be responsible to the Student Conduct Committee for maintaining complete records pertaining to the activities of the Community Standards Program. Those records shall include a summary of the business of the Community Standards Committee and a report of the disposition of each disciplinary case handled by any person or group authorized to impose disciplinary sanctions in the name of the University. For record keeping purposes, the Director may prescribe reporting procedures to be followed, in addition to those in paragraph (2) above by those authorized to impose disciplinary sanctions.

(c) The Director shall serve as non-voting Secretary of the Community Standards Committee and as advisor to all individuals and groups authorized to impose disciplinary sanctions. The Director shall serve as a non-voting, ex-officio member of the Residence Hall Governance Committee and of the residence hall Peer Judicial Board.

(d) The Director shall be responsible for gathering and presenting to the Student Conduct Committee the reports required by this code.

(4) Student Conduct Code Adoption, Amendment and Revision.

(a) Code establishment. Upon approval by the Board of Trustees of the University of Oregon, this Student Conduct Code becomes effective and supersedes all previous regulations and policies pertaining to student discipline at the University of Oregon.

(b) Code Amendment. This Code may be amended by the Board of Trustees of the University of Oregon, consistent with the Policy on Retention and Delegation of Authority upon consultation with the president, faculty, and students.

(c) Code Revision. This Code shall be continuously reviewed in its entirety to make sure it is consistent with best practices.

**Commented [SW37]:** Change reflects the current name of the committee

## II. Student Conduct Procedures

**[This section of the code describes the process that the Student Conduct office adheres to following an alleged violation of the code.]**

(1) Complaint. Any Member of the University Community or the public may file a complaint against a Student (or non-enrolled student as defined in this code) for a violation of the Student Conduct Code. A complaint shall be prepared in writing and directed to the Director of Student Conduct and Community Standards. Any complaint should be submitted as soon as possible after the alleged violation takes place, preferably within one year. Jurisdiction is determined pursuant to Section 1 of this code. The longer one waits to file a complaint the less information is likely to be available for the hearing, therefore it is important to file a complaint as soon as possible. Once the Office of Community Standards receives a complaint, the Office has 60 days to send written notice to the accused Student of the complaint, unless for good cause an extension of six months is provided in writing by the Vice President for Student Life's designee.

**Commented [SW38]:** Change reflects expansion of off-campus jurisdiction

**Commented [SW39]:** Changed passed by UO Senate. This change is supported by the Division of Student Life because it provides clarity to students that a complete withdrawal does not necessarily mean that the Office of Student Conduct and Community Standards retain jurisdiction in a case.

**Commented [SW40]:** Changing to be consistent with new code numbering system

**Commented [SW41]:** Change Passed by UO Senate. This change is supported by the Division of Student Life because it helps clarify that it is the Office of Student Conduct and Community Standards' responsibility to act expediently to resolve complaints referred to the Office.

(2) Notice. Upon receiving a complaint or notice that a Student may have violated the Student Conduct Code, the Director of Student Conduct and Community Standards shall serve a written notice upon the Student, either by electronic mail or by mailing to the latest address of the Student on file at the Office of the Registrar of the University, or, if necessary, by registered or certified mail or by personal service. A status update on the case shall be sent to the member of the university community who filed the complaint. Such notice shall inform the student of:

- (a) The alleged Code violation;
- (b) The opportunity for the student to meet with the Director for purposes of discussing the options for disposition of the case;
- (c) The Student's right to assistance. At an administrative conference with the Director (or their designee or before the Appeals Board, of the Vice President for Student Life's designee, if applicable, a Student may, but need not represent his or her own interests, or be assisted by someone including but not limited to one of the following representatives:

- (A) The Office of Student Advocacy;
- (B) Another Student;
- (C) A member of the faculty or administration;
- (D) An attorney

(d) The requirement to respond within 7 calendar days to arrange a meeting with the hearing officer. The hearing officer will proceed as provided below if the Student does not arrange to meet or fails to meet with the hearing officer as arranged.

~~(e) Where sexual misconduct is alleged, the complainant is entitled to the same opportunity as the accused student to have an advisor. If either student retains a legal advisor, the other student is entitled to one funded by the University at no cost to the student, if he or she the student so chooses. The University will provide this assistance through reasonable reimbursement, through a contract with an organization, or through other arrangement.~~

(e) To the extent the University provides free legal representation to students who are party to student conduct proceedings, it will ensure that free legal representation is equally available to student respondents and student complainants.

(3) Response: If after receiving notice, pursuant to this rule, the Student does not arrange to meet with the Director within 7 days or if the Student arranges to meet with the Director but does not attend such a meeting, the Director of Student Conduct and Community Standards may take any of the actions specified in this code for disposition of the case without consultation with or agreement by the Student.

4. With the consent of an Accused Student, the Director of Student Conduct and Community Standards may defer proceedings for alleged minor violations of this Code for a period not to exceed ninety days. Pending complaints may be withdrawn thereafter at the discretion of the Director of Student Conduct and Community Standards or designee.

**Commented [SW42]:** Change Passed by UO Senate. This change is supported by the Division of Student Life because it helps to ensure that complainants are allowed an equitable opportunity to participate in the process.

**Commented [SW43]:** Change reflects that Bar Membership is not relevant in our process

**Commented [SW44]:** Edited to provide equity in representation, but allow the University to develop a mechanism to permanently put it in place

**Commented [rjr45]:** See Comment [SW50] above

### III. Administrative Conferences

**[This section of the code outlines the rights that an accused student holds during the Conduct procedures, including rights relating to the student's mental capacity and any mental disorder the from which the student may suffer.]**

(1) Complainants, witnesses, and accused students may have an advisor, as defined this code, present during any interviews with the Director of Student Conduct and Community Standards, or designee, and any other disciplinary conduct proceeding.

(2) Students accused of violations will have an administrative conference with the Director of Student Conduct and Community Standards, or designee. The following procedural protections are provided to accused students in administrative conferences:

(a) Reasonable access to the case file prior to and during the conference, except to the extent access to such material is prohibited by law. The case file may contain materials that are considered "education records" pursuant to the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended and personal notes of University staff members and complainants. Access to these materials may be prohibited by law. Otherwise, to the extent allowed by law, copies of the case file will be provided upon request.

(b) An opportunity to respond to all information provided and to ask the Director or designee hearing the case to contact relevant and necessary witnesses.

(c) The right to have the case referred outside the Office of Community Standards if the Student can articulate a reasonable basis from which to conclude that the Office of Community Standards is biased for some reason that would prevent the student from receiving a fair hearing by the office. Such cases are referred to the Vice President for Student Life's ~~their~~ designee.

(3) In cases where the Director of Student Conduct and Community Standards concludes that a Student accused of any offense under the Student Conduct Code lacks the mental capacity to respond to the complaint, the Director shall stay the proceeding until such time that the Director concludes that the Student may adequately respond. A stay granted pursuant to this section shall not in any manner preclude a proceeding for medical leave under OAR Chapter 571, Division 23. If the student has been accused of Academic Misconduct, no academic sanction may be imposed during a stay granted pursuant to this section, but the faculty member for the coursework out of which the complaint of Academic Misconduct arose shall request the Registrar to assign a grade of "I" until the disciplinary proceeding has been completed.

(4) No sanctions shall be imposed against a Student who acknowledges engaging in the specific conduct alleged and who submits a written statement from a Student Health Center psychiatrist or a Counseling Center psychologist stating that, as a result of mental disorder at the time of the offense, the Student did not appreciate the wrongfulness of the conduct or could not conform his or her behavior to the requirements of the Code. The Student may submit any other supplemental information pertinent to his or her mental condition to the Director of Student Conduct and Community Standards. If, based upon all information received, the Director decides that the conduct of the Student resulted from mental disorder, the Director shall seek professional assistance and advice, and, if appropriate and legally authorized, consult with the Student's

**Commented [SW46]:** The Student Conduct Process is based on an educational and developmental model for an administrative process, rather than an adversarial model based on the criminal process. This language was changed to make the code language more consistent with our practice.

**Commented [SW47]:** Removed gendered pronouns

parent or guardian or take other measures to assure a fair disposition of the case. If the Student has been accused of Academic Misconduct, the faculty member for the coursework in which the Academic Misconduct took place shall assign an appropriate grade.

(5) Administrative conferences regarding Sexual Misconduct will generally be complete within 60 days of the receipt of the complaint; however, the 60 day period may be extended for good cause including but not limited to situations where the complexity of the investigation, the number of witnesses identified, or the volume of information which needs to be gathered and reviewed necessitates more time.

**Commented [SW48]:** Added to be in compliance with the amendments to the Violence Against Women Act.

## IV. Appeals

**Commented [SW49]:** This section moved for a logical placement in the code

**The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. The Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions issued following an administrative conference.**

(1) A decision reached through an administrative conference may be appealed by the Accused Student or Complainant(s) within fourteen calendar days of the decision. Such appeals shall be in writing, state the basis for the appeal and be delivered to the Office of Student Conduct and Community Standards. All appeals of cases involving sexual misconduct will be heard directly and exclusively by the Vice President for Student Life's designee; all other appeals will be heard by the Appeals Board.

(a) An Accused Student who does not attend the administrative conference may appeal only to show with direct information that the Accused Student did not receive notice of the conference.

(b) A Complainant(s) who fails to attend any requested meetings with the Director or fails to present information in a format approved by the Director may appeal only to show with direct information that the Complainant did not receive notice of the hearing.

(2) Except as the Appeals Board or the Vice President for Student Life's designee determines necessary to explain the basis of new information, an appeal is limited to a review of the verbatim record of the administrative conference and supporting documents:

(a) To determine if the administrative conference was conducted fairly in light of the complaint made and information presented and in conformity with procedures required in this Code, giving the Complainant a reasonable opportunity to present information, and giving the Accused Student reasonable notice and an opportunity to prepare and to respond to the allegations. A deviation from procedures required by this Code will not be a basis for sustaining an appeal unless significant prejudice results;

(b) To determine whether the decision reached regarding the Accused Student was based on substantial information, that is, whether there were facts that, if believed by the Director or designee were sufficient to establish that a violation of the Code occurred;

(c) To determine whether the sanction(s) imposed were commensurate with violation;

(d) To consider new information sufficient to alter a decision or other relevant facts not brought out in the original hearing only if such information or facts were not known to the person appealing at the time of the hearing.

(3) No decision of may be overruled by the Appeals Board except through an affirmative vote of a majority of the Appeals Board members present. If the Appeals Board or the Vice President

for Student Life's designee overrules a decision in whole or in part, it may:

- (a) Modify the decision or sanction; or
- (b) Remand for further proceeding.

## V. University Appeals Board

**Commented [SW50]:** Section moved to a more logical placement in the code

**The University Appeals Board is one option that the student has to have their case reviewed. This section of the code outlines how the members of the Appeals Board are chosen.**

(1) The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. As set forth in this code, the Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions of all administrative conferences in cases except those involving sexual misconduct which shall be appealed directly to the Vice President for Student Life's designee.

(2) Membership. The Appeals Board shall consist of three faculty members, recommended by the Committee on Committees of the University Senate, and three student members, recommended by the ASUO. Board members shall be appointed by the President and serve for one-year terms. They may be reappointed, but no member may serve for more than two consecutive terms. Temporary members may be appointed to assure full Appeals Board membership during summer session or at such other times as are necessary. The President shall designate one of the members as pro tempore chair of the Appeals Board.

(3) The Appeals Board will elect its permanent chair at its first meeting. A quorum shall consist of two students and two faculty members. The Appeals Board shall establish its own rules of procedure.

## VI. Imposition of Sanctions, Adjudication of Contempt and Failure to Complete Assigned Sanctions

**Commented [SW51]:** Section moved to a more logical placement in the code

**[This section of the code designates who has authority to impose a sanction, and outlines the responsibility of the student regarding the sanctions.]**

(1) A University Official or Student Organization that determines that an Accused Student violated the Student Conduct Code may impose sanctions authorized by this Code unless otherwise expressly limited. Sanctions are subject to appeal pursuant to this code-

(2) A University Official responsible for making a determination if a student has violated this Code may declare a Student participant in contempt of adjudicative proceedings pursuant to this code and impose sanctions without complying with the procedures otherwise required in this Code. Adjudication of contempt and sanctions imposed are subject to appeal pursuant to this code.. Imposition of sanction and the circumstances that gave rise to it shall be reported to the Director of Conduct and Community Standards.

(3) Failure to complete assigned sanctions. The University will use the procedures established

by this section to enforce the timely completion of disciplinary sanctions issued under the Student Conduct Code.

(a) A Student who is found responsible for a Student Conduct Code violation and who receives a sanction will be informed orally by the Office of Student Conduct and Community Standards of the consequences of failing to complete the sanction. The Office of Student Conduct and Community Standards will also inform the student in writing of the consequences of failing to complete the sanction as part of the decision letter sent to the Student.

(b) If a Student fails to complete the disciplinary sanction by the assigned deadline, the Office of Student Conduct and Community Standards will send the Student a letter that states:

(A) The Student has five class days after the assigned deadline to provide verification to the Office of Student Conduct and Community Standards that the assigned sanction has been completed or the Student's record ability to register for classes, drop classes, or change grade options will be placed on hold;

(B) Once the Student's record is on hold, the hold will not be removed until the Office of Student Conduct and Community Standards has received verification that the Student has completed the sanction; and

(C) The Student is responsible for ensuring that the Office of Student Conduct and Community Standards receives verification of completion of the sanction.

(c) When a hold is placed on a Student's record, the Office of Student Conduct and Community Standards will inform the Student in a letter that the hold has been placed, the consequences of the hold, and the actions required to have the hold removed.

(d) The hold will be removed immediately once the Student provides verification of completion of the sanction.

(e) A Student who is unable to register because the student has not completed a sanction may seek a waiver from the Office of Student Conduct and Community Standards. The Office of Student Conduct and Community Standards will grant a waiver, allowing the student to register, provided the Student agrees the Student's registration may be cancelled immediately and the hold reinstated if the Student has not completed the sanction by a deadline set by the Office of Student Conduct and Community Standards, in its sole discretion.

## Section 4: Academic Misconduct Procedures

[This section of the code describes the process between the student suspected of misconduct and the University Official before the case is referred to the office of Student Conduct and Community Standards

Commented [SW52]: Changed for clarity.

(1) Notice. Upon the discovery of suspected Academic Misconduct, as defined in this code, the University Official with responsibility for the academic matter or the faculty member in whose course the incident occurred shall promptly notify the Student of the incident. This notice shall

include a discussion of the option of having the case referred directly to the Director of Student Conduct and Community Standards.

(2) If a Student admits to Academic Misconduct in a course, the faculty member shall impose an appropriate academic sanction up to and including a grade of "N" or "F" and report the incident to the Office of Student Conduct and Community Standards. Written notice of the sanction or resolution without sanction shall be given the Student. If, in the judgment of the faculty member, further disciplinary action is warranted, the report to the Director of Student Conduct and Community Standards shall so indicate. The Student may appeal the academic sanction to the faculty member's department head and, ultimately, to the dean of the college or school in which the incident originated.

(3) If a Student admits to Academic Misconduct in a situation other than a course, the responsible University Official may determine and implement an appropriate response and report the incident to the Office of Student Conduct and Community Standards. Written notice of the sanction or resolution without sanction shall be given the Student. If, in the judgment of the University Official, further disciplinary action is warranted, the report to the Director of Student Conduct and Community Standards shall so indicate. The Student may appeal the academic sanction to the University Official's department head or director.

(4) If a faculty member or University Official and a Student cannot agree as to whether Academic Misconduct has occurred, the University Official or faculty member will, not later than fourteen calendar days during which the University is in session after the date the faculty member or University Official notifies the Student, make a written referral of the case to the Office of Student Conduct and Community Standards for resolution. The case will then be conducted in accordance with the procedures established in this Code.

(a) If there is a finding that the Student engaged in Academic Misconduct in a class, in addition to sanctions imposed through the regular student conduct procedures, the faculty member will assign an appropriate grade.

(b) If there is a finding that the Student did not engage in Academic Misconduct, no academic sanction may be imposed.

(5) Reporting Academic Misconduct. Regardless of the method of resolution, University Officials, including faculty members are required to file a written report of any Academic Misconduct with the Director of Student Conduct and Community Standards. These reports shall be treated as confidential and maintained consistent with the Student Records Policy, 571-020-0100 et seq.

(6) Withdrawing from a Course.

(a) If a Student's Academic Misconduct in a course results in an academic sanction, the student will not be permitted to drop or withdraw from the course, or to change the course's grading option, and shall be reinstated in the course if they have dropped or withdrawn.

(b) If a Student's Academic Misconduct does not result in an academic sanction, the Student may withdraw from the course or change the course's grading option at the later of:

(A) Expiration of the withdrawal deadline for the course;

(B) Expiration of the deadline for changing grade options; or

(C) Five business days after the student receives notification of the decision or termination of Student Conduct Code proceedings without sanction.

(c) In the event the Student is found not responsible for Academic Misconduct and the Student

no longer feels comfortable returning to the class, the Office of Student Conduct and Community Standards will assist the student to attempt to remove the “w” from the transcript.

## Section 5: Alternative Dispute Resolution

**Consistent with the primary mission of the Code to establish community standards and procedures that promote an environment conducive to learning by upholding academic standards and by respecting community members, alternative dispute resolution provides an opportunity for individuals affected by violations or alleged violations of this Code to resolve disciplinary matters among themselves, with or without findings of responsibility. Students who participate in a method of alternative dispute resolution and successfully fulfill their obligations may, upon completion of their obligations, have their student conduct record regarding the matter voided.**

(1) Mediation. Mediation is encouraged as an alternative means to resolve allegations of Student Conduct Code violations, where appropriate, **except for sexual misconduct involving unwanted penetration or nonconsensual personal contact as set out in this code which shall not be subject to mediation.** The Director of Student Conduct and Community Standards will inform Complainants and Accused Students about the availability of mediation resources. The Director, in the exercise of the Director’s sole discretion, may, except in cases of alleged Academic and Sexual Misconduct, decline to process a complaint until the parties make a reasonable attempt to achieve a mediated resolution.

(a) To be binding under this Code, any mediated resolution must be approved by the Director of Student Conduct and Community Standards. Any agreement will be enforced by the Office of Student Conduct and Community Standards.

(b) Procedures for Alternative Dispute Resolution. Students wishing to pursue mediation shall notify the Director of Student Conduct and Community Standards within fourteen calendar days of receiving written notice of the violation pursuant to this code.

(c) The Director of Student Conduct and Community Standards may determine if an Accused Student must acknowledge responsibility as a condition of the Director’s approval of a mediation option. If the Director requires an Accused Student to acknowledge responsibility as a condition to approving the mediation, the Director will not proceed until the Accused Student has provided the Director with that acknowledgement.

(d) The Director of Student Conduct will determine whether others affected by the alleged violation are willing to participate in mediation. Parties agreeing to mediation must sign a waiver allowing the Director to receive information from the mediator regarding the progress of the mediation.

(e) Once the necessary parties agree, the Director of Student Conduct and Community Standards will approve a mediator and set a date for a report from the mediator regarding progress. If the Director, in the Director’s sole discretion, determines that mediation is unlikely to be successful, the Director may inform the necessary parties and initiate other procedures.

(2) Restorative Justice. Restorative Justice serves primarily as a diversion program for Accused Students who have acknowledged responsibility for a Code violation and who wish to remedy

**Commented [SW53]:** Changed to use language consistent with this code.

**Commented [SW54]:** Change passed by the UO Senate. This change is supported by the Division of Student Life because it provides clarity that sexual assault cases will not be resolved through mediation. Rather, they will be resolved and adjudicated through the Student Conduct Process.

the effects of the violation.

(a) The Director of Student Conduct and Community Standards will consider approving Restorative Justice in the following circumstances:

- (A) The Accused Student acknowledges responsibility for a the Code violation;
- (B) There are clearly identifiable negative impacts on either individuals or the community resulting from the violation; and
- (C) The Accused Student and those impacted by the incident agree to participate in Restorative Justice.

(b) A Restorative Justice outcome shall not be binding unless approved by the Director of Student Conduct and Community Standards. An agreement reached through Restorative Justice will be enforced by the Office of Student Conduct and Community Standards.

(3) The Director of Student Conduct and Community Standards may initiate procedures to make a determination of responsibility or, in the Director's discretion, to proceed pursuant to this code. If an Accused Student who participates in alternative dispute resolution fails to fulfill an obligation or otherwise fails to comply with the approved resolution.

(4) Upon timely completion of a student's obligation arising from alternative dispute resolution, a student may provide to the Director of Student Conduct and Community Standards documentation of completion. If the Director of Student Conduct and Community Standards concludes the student fulfilled the student's obligation in a timely fashion, Director of Student Conduct and Community Standards will remove information regarding the violation from the student's record.

## Section 6: Emergency Action

**[This section of the code describes the rights of the Director of Student Conduct and Community Standards to take Emergency action regarding the accused student when it is necessary to secure the health or safety of any persons.]**

(1) The Director of Student Conduct and Community Standards or his or her designee may take emergency action regarding a Student when immediately necessary to secure the health or safety of any persons and there is an alleged violation of the Student Conduct Code.

(2) Emergency Action includes, but is not limited to:

- (a) Immediate withdrawal of the Student from the University;
- (b) Restrictions on the Student's presence on University Premises or at University Sponsored Activities.

(c) Placing a hold on a student's record that will prevent registration would prevent the student from obtaining an official copy of the student's transcript.

**Commented [SW55]:** Added the ability to place holds as a part of an emergency action.

(3) The Director of Student Conduct and Community Standards may request that the Student secure a medical and psychological evaluation through the Student Health Center or at another facility at the Student's own expense. The evaluation may be used to determine the

appropriateness of withdrawing the emergency action.

(4) When the emergency action takes place, the Director of Student Conduct and Community Standards or designee will:

- (a) Inform the Student and Complainant, if applicable, of the reason for the emergency action;
- (b) Give the Student and Complainant, if applicable, the opportunity to explain why emergency action should or should not be taken;
- (c) Inform the Student and Complainant, if applicable, that a preliminary hearing will take place according to Paragraph (5) the procedures in this section and that the Student will be informed of its time, place, and date; and
- (d) Inform the Student and Complainant, if applicable, of the possible restrictions that may be imposed prior to an administrative conference.

Commented [SW56]: Added to ensure that the Complainant is able to participate in an equitable manner in an Emergency Action process

(5) The preliminary hearing shall take place within two business days of the emergency action. At this hearing the Student shall have a full opportunity to demonstrate to the Director of Conduct and Community Standards that emergency action is not necessary pursuant to Paragraph (1). The Student may be represented by a student advocate or other counsel. The Director will also consult with the Complainant, if applicable, who may also be represented by a student advocate or other counsel, during any consultation.

Commented [rjr57]: See Comment [SW 62] above.

(a) Based on the reasonable evaluation of the information presented at the preliminary hearing, the Director of Student Conduct and Community Standards shall notify the Student within 24 hours of the decision to:

- (A) Dissolve the emergency action and take no further action;
- (B) Dissolve the emergency action but proceed to an administrative conference; or
- (C) Sustain or modify the emergency action until such time as a resolution is researched following an administrative conference.

(6) An emergency action shall be reviewed by Vice President for Student Life's Designee at the request of the Student no sooner than the next working day after the preliminary hearing. The review shall provide an opportunity for the Student to explain why an emergency action need no longer be imposed. Subsequent review of the same emergency action may be requested no more frequently than every ten days.

(7) If emergency restrictions on a Student's housing or enrollment are removed, the Student will not be assessed any fees for reinstatement.

**Section 7: Student Conduct Process for Student Organizations**

Commented [SW58]: Moved to a more logical section of the code

**Violations of Community Standards by Student Organizations Student Conduct Process for Student Organizations**

**When members of a Student Organization act together in a way that violates University Student Conduct Code, the Student Organization is expected to hold its members responsible for those violations.**

(1) When a potential violation of the Student Conduct Code by a Student Organization comes to the University's attention, the Office of Student Conduct and Community Standards may review the incident to determine the appropriate process for resolution. Generally, the University will expect a Student Organization to hold itself accountable for the acts of its members when those acts are related to the Student Organization's activities.

(a) The Student Organization or its governing body will notify the Office of Student Conduct and Community Standards and keep it informed at all stages of the process.

(b) The University, through the Office of Student Conduct and Community Standards, reserves the right to take immediate jurisdiction at its discretion. The student organization or governing body may still hold its members accountable in the situation, but must do so in conjunction with the Office of Student Conduct and Community Standards.

(2) If sufficient action is not taken in a timely manner by the student organization to correct a violation of University standards, individuals may file grievances with the appropriate governing body, or, if none exists, with the Office of Student Conduct and Community Standards.

(3) If, in the judgment of the Vice President of Student Life's designee, sufficient action is not taken in a timely manner by the governing body, the case will be referred to the Office of Student Conduct and Community Standards.

(4) In deciding whether the group is responsible for the violation, the University will consider whether the following factors are present:

(a) The violation arises out of a group-sponsored, organized, financed, or endorsed event;

(b) The organization provides the impetus for the violation;

(c) The violation occurs on the premises owned or operated by the group;

(d) A group leader has knowledge of the violation being likely to occur before it occurs and fails to take corrective action; or

(e) A pattern of individual violations is found to have existed without proper and appropriate group control, remedy, or sanction.



UNIVERSITY OF OREGON

## Seconded Motion from FFC

Regarding a FY16 budget and related expenditure authorizations



The Board of Trustees has the responsibility of approving a budget and related expenditure authorizations for each fiscal year. The next fiscal year for the University begins on July 1, 2015.

There are certain unknown factors that will impact a final budget proposal. These include items such as the final determination of state appropriation, approval of legislatively-authorized bonds for capital projects, FY16 PEBB rates, and the completion of collective bargaining. It is highly unlikely that all of these items will be settled prior to June 30.

As a result, the Vice President for Finance and Administration/CFO recommends, and the Board Chair and Finance and Facilities Committee Chair concur, that the Board pass a resolution in June authorizing expenditure limitations for Fiscal Year 2016 (FY16) that are at levels equal to the Fiscal Year 2015 (FY15) budget and authorization, with an understanding that the overall budget and related authorizations will in fact be higher once all items are finalized and added.

The VPFA/CFO will bring to the Board a final FY16 budget recommendation in September.

## Board of Trustees of the University of Oregon

### Seconded Motion: Adopting FY2016 Budget and Expenditure Authorizations

Whereas, ORS 352.102(1) provides that, except as set forth within ORS 352.102, the Board of Trustees may authorize, establish, collect, manage, use in any manner and expend all revenue derived from tuition and mandatory enrollment fees;

Whereas, ORS 352.107(1)(a) provides that the Board of Trustees may acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and invest all moneys, appropriations, gifts, bequests, stock and revenue from any source;

Whereas, ORS 352.107(1)(i) provides that the Board of Trustees may, subject to limitations set forth in that section, spend all available moneys without appropriation or expenditure limitation approval from the Legislative Assembly;

Whereas, ORS 352.107(2) requires, and the Board of Trustees finds, that the budget of the University of Oregon be prepared in accordance with generally accepted accounting principles;

Whereas, 352.107(1)(c) provides that the Board of Trustees may perform any other acts that in the judgment of the Board of Trustees are required, necessary or appropriate to accomplish the rights and responsibilities granted to the Board and the University by law;

Whereas, the Board of Trustees wishes to approve a budget and related expenditure authorizations for fiscal year 2016 prior to July 1, 2015;

Whereas, the Board of Trustees cannot approve a final fiscal year 2016 budget and expenditure authorization until more information is available regarding FY16 revenue and expenses (e.g., state appropriation allocations are finalized, health insurance rates are set, collective bargaining is completed); and

Whereas, the Finance and Facilities Committee of the Board of Trustees has referred this matter to the full Board of Trustees as a seconded motion, recommending passage.

Now, therefore, the Board of Trustees acts as follows:

1. A temporary operating budget equivalent to fiscal year 2015 (in the sum of \$901,288,040.00) is adopted for fiscal year 2016. During fiscal year 2016, the Treasurer of the University may expend or authorize the expenditure of this sum plus three percent, subject to applicable law. In the event that such expenditure authority is insufficient, the Treasurer may seek additional expenditure authority from the Executive and Audit Committee of the Board of Trustees.
2. A temporary capital budget equivalent to fiscal year 2015 (in the sum of \$110,000,000.00) is adopted for fiscal year 2016. During fiscal year 2015, the Treasurer of the University may expend or authorize the expenditure of this sum plus three percent, subject to applicable law. In the

event that such expenditure authority is insufficient, the Treasurer may seek additional expenditure authority from the Executive and Audit Committee of the Board of Trustees.

3. At its next regularly scheduled meeting, the Board of Trustees will review and adopt permanent operating and capital budgets for fiscal year 2016.
4. The Treasurer may provide for the further delegation of the authority set forth in paragraphs 1 and 2.

<b>Trustee</b>	<b>Yes</b>	<b>No</b>
<b>Ballmer</b>		
<b>Bragdon</b>		
<b>Chapa</b>		
<b>Colas</b>		
<b>Curry</b>		
<b>Ford</b>		
<b>Gary</b>		
<b>Gonyea</b>		
<b>Kari</b>		
<b>Lillis</b>		
<b>Ralph</b>		
<b>Schlegel</b>		
<b>Wilcox</b>		
<b>Willcox</b>		

Dated this \_\_\_ day of \_\_\_\_\_, 2015.



UNIVERSITY OF OREGON

Seconded Motion from FFC  
Regarding adoption of Legacy Pension Plans

**Introduction**

This is a recommendation to the Board of Trustees (the “Board”) of the University of Oregon (the “University”) to accept sponsorship of two retirement plans currently sponsored by the Oregon University System (“OUS”).

OUS will cease operations after June 30, 2015. Therefore, a new sponsor must take control of two retirement plans sponsored by OUS: the Oregon University System 401(a) Defined Contribution Plan (the “Legacy 401(a) Plan”) and the Oregon University System 403(b) Defined Contribution Plan (the “Legacy 403(b) Plan”); (the Legacy 401(a) Plan and the Legacy 403(b) Plan are, together, the “Legacy Plans”). The University currently sponsors and administers three other retirement plans that were previously sponsored by OUS for the benefit of all seven of Oregon’s public Universities. The University also already performs various clerical functions for the Legacy Plans. As a result, the University would not need to hire additional staff to sponsor the plans, nor would it incur any significant additional overhead costs. Costs related to the University’s administration of the Legacy Plans will be divided among Oregon’s public universities pro rata based on the number of employee accounts attributable to each university. Furthermore, the University will ensure that the Legacy Plans are operated in accordance with the law.

**Project Overview**

The Legacy Plans were created pursuant to ORS 243.910 to 243.940. The Legacy Plans are predecessors of the current Optional Retirement Plan. The Legacy 401(a) Plan, a qualified retirement plan under section 401(a) of the Internal Revenue Code, was created in 1989. The Legacy 403(b) Plan, a tax-deferred annuity plan under section 403(b) of the Internal Revenue Code, was created in 1967.

The Legacy Plans have provided retirement benefits for hundreds of employees of Oregon’s public universities. OUS continues to administer the Legacy Plans for the benefit of those employees of public universities who elected to participate in the plans prior to 1996. However, pursuant to statute and the Legacy Plans’ provisions, no new employees have been permitted to join the Legacy Plans since 1996. As of March 31, 2015, the Legacy 401(a) Plan held account balances for 347 employees and the Legacy 403(b) Plan held account balances for 412 employees. Each of Oregon’s public universities has employees who participate in the Legacy Plans. As of December 31, 2014, the Legacy 401(a) Plan had over \$30 million of assets under management and the Legacy 403(b) Plan had almost \$51 million. The Oregon public universities are making contributions for only 32 active employees who are participating in the Legacy Plans.

By a Resolution of the Board dated June 12, 2014, effective July 1, 2014, the University of Oregon became the plan sponsor and administrator for three OUS retirement plans: the Optional Retirement Plan, the Tax-Deferred Investment 403(b) Plan, and the Supplemental Retirement Plan. The University did not assume sponsorship of the Legacy Plans on July 1, 2014, because the University's leadership and retirement plans management team did not have sufficient information from OUS to determine that the Legacy Plans were compliant with the strict rules imposed on retirement plans under federal law. The University's leadership was unwilling to recommend to the Board that the University assume responsibility for the Legacy Plans without understanding the full scope of the Legacy Plans' current state of compliance. As a result, OUS continued sponsoring the Legacy Plans, and the University only assumed sponsorship of the three retirement plans described above.

### Compliance Status of the Legacy Plans

Due to OUS's pending dissolution, the University's Vice President for Finance and Administration, Director of Retirement Plans, and Assistant General Counsel have worked closely with OUS's Vice Chancellor and General Counsel as well as other stakeholders from the public universities to determine the compliance status of the Legacy Plans and to determine the best course for future sponsorship of these plans. OUS and its outside counsel have not discovered any concerns with the Legacy 403(b) Plan. However, after a detailed review, OUS, along with its outside counsel, identified concerns regarding operational matters of the Legacy 401(a) Plan. The Legacy 401(a) Plan document, originally prepared for OUS by an outside vendor, did not track the required contribution and vesting procedures as outlined in state law under ORS 243.930 in three ways. Inasmuch as the Legacy 401(a) Plan's provisions diverged from state law, OUS adhered to the requirements of state law, not the Legacy 401(a) Plan provisions. After a detailed review, OUS and its outside counsel have determined that the Legacy Plans were operated so that plan participants received all the benefits protected by state law. OUS and its outside counsel have also provided sufficient information so that the University and its outside counsel could independently reach the same conclusion.

Going forward, OUS has taken all possible steps to ensure that the Legacy 401(a) Plan's provisions and procedures comply with legal operational requirements. OUS has continued to comply with state law with respect to the required contribution and vesting procedures required under state law. In May of 2015, OUS submitted a report to the Internal Revenue Service, the agency responsible for monitoring the administration of retirement plans, to notify the agency of these operational concerns in the Legacy 401(a) Plan provisions. Through this process, known as the Voluntary Compliance Program or "VCP," OUS has proposed amendments to the Legacy 401(a) Plan which will correct the concerns regarding the contribution and vesting procedures by conforming the plan's provisions to state law. OUS's submission also eliminates the likelihood of monetary sanctions that could have been imposed by the IRS if it discovered these technical failures on audit as opposed to through the VCP process. These steps, coupled with the determination that the Legacy Plans' participants have received all benefits protected by state law, have paved the way for the University to accept sponsorship of the Legacy Plans.

## Potential Consequences if There is No Sponsor for the Legacy Plans

The recommendation that the University assume sponsorship of the Legacy Plans recognizes the need to prevent harm to the plans' participants as well as Oregon's public universities. Retirement plans are subject to a strict and constantly evolving legal regime. Retirement plan documents must be constantly updated to reflect the most recent legislation and regulation or else they will fall out of compliance. If a retirement plan falls out of compliance, there is a risk that it can lose its status as a method for providing tax-deferred retirement income to its participants. Plan sponsors perform an important role as both a fiduciary tasked with protecting a participant's invested assets and as a caretaker for the plans to ensure their continued compliance with the law.

No other entity has stepped forward to serve as a sponsor for the Legacy Plans after OUS is dissolved. If these plans are left with no sponsor, they will eventually fall out of compliance and could be subject to disqualification by the IRS. Disqualification of the Legacy Plans would result in significant and unpredictable financial harm to both the plans' participants and the University.

## The University as a Potential Sponsor

Now that the University has verified that OUS has taken all possible steps to ensure that the Legacy Plans comply with legal requirements and has maintained all participant benefits protected by state law, the University is in a unique position to sponsor the Legacy Plans on behalf of the other public universities. The University already has a retirement plans management team that, through a series of participation agreements signed by the public universities, provides the same services on behalf of the public universities with respect to the Optional Retirement Plan, Tax-Deferred Investment 403(b) Plan, and the Supplemental Retirement Plan. The University's retirement plans management team also already performs limited clerical activities with respect to the Legacy Plans. In addition, the University is already accustomed to performing fiduciary duties for retirement plans and already has the necessary information and insurance relationships to perform this role. As a result, though assuming sponsorship of any retirement plan is a burden on the sponsor, the University will assume only a small additional burden.

## Division of Cost

In the event that the University accepts sponsorship of the Legacy Plans, the University anticipates sharing the cost of administration with Oregon's public universities using the same model that it currently uses to share the costs of other retirement plans: pro rata based on the number of employee accounts attributable to each university. The University is currently working with the other public universities to secure their approval for a pro rata division of cost based on the model that is currently used for the other retirement plans.

As previously noted, the University already has an administrative structure in place to sponsor other retirement plans. As a result, administration of the Legacy Plans will likely constitute less than 5% of the total budget for retirement plans administration on an annual basis, or less than \$30,000 annually. Moreover, as described above, the costs of administration will be split pro rata, based on the number of employee accounts attributable to each university, among the public universities.

### Proposed Transition

If the University assumes sponsorship of the Legacy Plans, it must do so before June 30, 2015, when OUS is dissolved. In order to accomplish the transition of the Legacy Plans, the following events must occur:

- Amend the Legacy Plans' documents – The plan documents for each of the Legacy Plans must be amended to reflect the University's sponsorship. These amendments have been drafted and attached as exhibits to the resolution before the Board. We anticipate signing these amendments within one week after approval of the resolution by the Board.
- Amend the Retirement Plans Participation Agreements – The Retirement Plans Participation Agreements, which establish the terms upon which the other public universities will participate in retirement plans administered by the University, must be amended to include the Legacy Plans. These amendments have been drafted, and we anticipate signing these amendments within two weeks after approval of the resolution by the Board.
- Amend the University Shared Services Enterprise Statement of Work – The University Shared Services Enterprise Statement of Work, which establishes the services that the University and USSE separately provide in administering retirement plans sponsored by the University, must be amended to include the Legacy Plans. This amendment has been drafted, and we anticipate signing this amendment within two weeks after approval of the resolution by the Board.
- Submit Form 8822-B to the IRS – Form 8822-B is a form that notifies the IRS that a new sponsor has accepted responsibility for a retirement plan. This document will be drafted, reviewed, and submitted to the IRS within two weeks of the resolution after approval by the Board.

The amended Legacy Plans' documents indicate that the University will take sponsorship of the plans effective July 1, 2015. Administrative transition of the Legacy Plans to the University will be seamless to participants. The University already performs some clerical activities for the Legacy Plans, and the University employs retirement plans management staff that previously administered the Legacy Plans as employees of OUS.

## **Board of Trustees of the University of Oregon**

### **Seconded Motion: Administration of the OUS Legacy Retirement Plans**

Whereas, in connection with the effectiveness of Senate Bill 270, Oregon Laws 2013, chapter 768, as amended by Senate Bill 1525, Oregon Laws 2014, chapter 113, and House Bill 4018, Oregon Laws 2014, chapter 83, the Oregon University System (“OUS”) consists of Eastern Oregon University (“EOU”), Western Oregon University (“WOU”), Southern Oregon University (“SOU”), and Oregon Institute of Technology (“OIT”) until July 1, 2015; and the following universities are established as independent public bodies: the University of Oregon (“University”), Oregon State University, and Portland State University;

Whereas, effective July 1, 2015, the remaining universities in the OUS, including EOU, WOU, and SOU, will become separate legal entities and OUS will cease operations;

Whereas, OUS has sponsored and administered certain retirement plans for the benefit of the employees of OSU, PSU, EOU, WOU, SOU, OIT, and the Chancellor’s Office of the OUS (collectively, the “Participating Employers”) as well as the University;

Whereas, effective July 1, 2014, the University adopted and began administering three of those retirement plans, the Optional Retirement Plan (the “ORP”), the Tax-Deferred Investment 403(b) Plan (the “TDI”), and the Supplemental Retirement Plan, also known as the Presidential Cash Balance Plan (the “SRP”), on behalf of the Participating Employers and the University pursuant to agreements between the University and each Participating Employer (each agreement, a “Participation Agreement”);

Whereas, pursuant to the Participation Agreements between the University and each of the Participating Employers, effective July 1, 2014 (the “Participation Agreements”), and a Resolution of the Board of Trustees of the University of Oregon, dated June 12, 2014, the University adopted and began administering the ORP, the TDI, and the SRP on behalf of the Participating Employers and the University;

Whereas, OUS has continued to sponsor and administer two other retirement plans for the benefit of the employees of the Participating Employers and the University: the Oregon University System 401(a) Defined Contribution Plan (the “Legacy 401(a) Plan”) and the Oregon University System 403(b) Defined Contribution Plan (the “Legacy 403(b) Plan”) (the Legacy 401(a) Plan and the Legacy 403(b) are, together, the “Legacy Plans”);

Whereas, pursuant to a proposed amendment to each of the Legacy Plans and the Participation Agreements, effective July 1, 2015, the University would adopt and administer the Legacy Plans on behalf of the Participating Employers and the University;

Whereas, pursuant to Oregon Revised Statutes 243.910 to 243.945, 352.107, and 352.129, the Board of Trustees of the University of Oregon (the “Board”) has the authority to provide employee benefits, including retirement benefits, through a shared administrative services model; and

Board of Trustees of the University of Oregon  
Seconded Motion: Administration of OUS Legacy Pension Plans  
June 4, 2015  
Page 1

Whereas, the Finance and Facilities Committee has referred this matter to the full Board as a seconded motion;

NOW, THEREFORE, the Board of Trustees hereby resolves that the Legacy Plans be, and they hereby are, adopted and approved, in substantially the forms presented to the Board and attached hereto as Exhibits A and B, and the President of the University, or his delegate, hereby is authorized and directed to execute and deliver the Legacy Plans, and any ancillary documents and agreements, including, but not limited to, an amendment to each of the Participation Agreements, with such additional terms and conditions as the President or his delegate may approve, such approval to be conclusively evidenced by the execution and delivery of such documents by the President or his delegate.

FURTHER RESOLVED, that the Board accepts and acknowledges its role as the administrator of the Legacy Plans;

FURTHER RESOLVED, that the President of the University, or his delegate, be and are hereby authorized and empowered to act on behalf of the Board as the administrator of the Legacy Plans and shall be authorized and empowered to prepare and execute such documents, make such filings and take any additional actions he or she, in his or her discretion, deems necessary or advisable, including, but not limited to amendments to the Legacy Plans, to effect the purposes and intents of the Legacy Plans and the foregoing resolutions and to provide for the lawful administration of the Legacy Plans.

FURTHER RESOLVED, that the President of the University, or his delegate, be and are hereby authorized and empowered to appoint initial, additional, and successor fiduciaries, including, but not limited to, trustees, committees and committee members, and plan administrators, and to take any additional actions he or she, in his or her discretion, deems necessary or advisable to effect the purposes and intents of the Legacy Plans and the foregoing resolutions and to provide for the lawful administration of the Legacy Plans.

FINALLY RESOLVED, that any actions previously taken by the officers or employees of the University that would have been authorized by the foregoing resolutions, if taken after their adoption, are hereby ratified and confirmed.

*--Vote recorded on following page--*

Trustee	Yes	No
Ballmer		
Bragdon		
Chapa		
Colas		
Curry		
Ford		
Gary		
Gonyea		
Kari		
Lillis		
Ralph		
Schlegel		
Wilcox		
Willcox		

Dated: \_\_\_\_\_ of \_\_\_\_\_, 2015.

Initials: \_\_\_\_\_

# EXHIBIT A

OREGON PUBLIC UNIVERSITIES 401(a) DEFINED CONTRIBUTION PLAN

As Amended and Restated Effective July 1, 2015

OREGON PUBLIC UNIVERSITIES 401(a) DEFINED CONTRIBUTION PLAN

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ARTICLE I  
BACKGROUND

1.1 Plan History.

- (a) 1965 Authorizing Statutes. In 1965 the Oregon Legislature enacted Oregon Revised Statutes ("ORS") 243.910 to 243.940 to authorize the Oregon State Board of Higher Education to assist faculty rank employees who are members of the Oregon Public Employees Retirement System ("PERS"), and who elect to be so assisted, in the purchase of retirement benefits supplementing the benefits to which those employees are entitled under PERS.
- (b) 1967 Creation of 403(b) Plan. Under the authority in ORS 243.910 to 243.940, the Oregon State Board of Higher Education established the Oregon University System 403(b) Defined Contribution Plan (then named the Oregon State Board of Higher Education TIAA-CREF Retirement Plan) as of January 1, 1967 (the "403(b) Plan"), and operated the 403(b) Plan under Internal Revenue Code ("Code") Section 403(b).
- (c) 1989 Freezing of 403(b) Plan, Creation of this Plan, and Favorable IRS Determination Letter for this Plan. Effective July 1, 1989, the Oregon State Board of Higher Education stopped assisting faculty rank employees through the 403(b) Plan and began assisting faculty rank employees through this Plan (then named the Oregon State System of Higher Education Defined Contribution Retirement Plan), which was established effective July 1, 1989, as a money purchase plan under Code Section 401(a) and as a "governmental plan" as defined in Code Section 414(d). By letter dated October 16, 1989, the Internal Revenue Service issued a favorable determination for this Plan, under the name Oregon State Board of Higher Education Money Purchase Plan.
- (d) 1995 Designation of Certain Employees as not Eligible to Participate in this Plan. In 1995 the Oregon Legislature enacted 1995 Oregon Laws chapter 600 to (i) require the Oregon State Board of Higher Education to establish an optional retirement plan (established as the Oregon University System Optional Retirement Plan) for administrative and academic employees, (ii) designate employees hired on or after September 9, 1995, as not eligible to be assisted by the Oregon State Board of Higher Education under ORS 243.910 to 243.945, and (iii) designate employees hired before September 9, 1995, who had not previously elected to be assisted by the Oregon State Board of Higher Education under ORS 243.910 to 243.945 as not eligible to be so assisted.
- (e) 1997 Change of Names of Three Participating Institutions. In 1997 the Oregon Legislature enacted 1997 Oregon Laws chapter 11, section 1, to change the name of (i) Eastern Oregon State College to Eastern Oregon University, (ii) Southern Oregon State College to Southern Oregon University, and (iii) Western Oregon State College to Western Oregon University.
- (f) 2001 Change of Name of Oregon Health Sciences University to Oregon Health and Science University. In 2001 the Oregon Legislature enacted 2001 Oregon

Laws chapter 123, section 1, to change the name of Oregon Health Sciences University to Oregon Health and Science University.

- (g) 2001 Change of Name of Oregon State System of Higher Education to Oregon University System. In 2001 the Oregon Legislature enacted 2001 Oregon Laws chapter 382, section 1, to change the name of the Oregon State System of Higher Education to the Oregon University System.
- (h) 2002 Amendment to Allow Certain Cash Withdrawals. By an Amendment dated December 17, 2002, the third and fourth paragraphs of Section 7.1 of this Plan as established effective July 1, 1989, were amended effective January 1, 2003.
- (i) 2011 Establishment of Oregon University System as a Public University System. In 2011 the Oregon Legislature enacted 2011 Oregon Laws chapter 637, section 19, to establish the Oregon University System as a public university system.
- (j) 2013 Change of Plan Name. Among other changes, the name of this Plan was changed to Oregon University System 401(a) Defined Contribution Plan

1.2 2015 Restatement. Effective July 1, 2015, the Plan is amended and restated to reflect the following:

- (a) Change of Plan Name. This amendment and restatement changes the name of this Plan to Oregon Public Universities 401(a) Defined Contribution Plan.
- (b) Change of Plan Sponsor. This amendment and restatement changes the sponsor and administrator responsible for this plan from the Oregon State Board of Higher Education to the Board of Trustees of the University of Oregon.

1.3 Benefits Provided Through Funding Vehicles. Plan Contributions are invested, at the direction of each Participant, in one or more of the Funding Vehicles available to Participants under this Plan. All benefits under this Plan are provided solely through the Funding Vehicles selected by the Participant.

## ARTICLE II DEFINITIONS

Unless the context gives the term a different meaning, capitalized terms used in this Plan and defined in this Article have the following meanings.

2.1 Accumulation Account. "Accumulation Account" means the separate account established for each Participant. The value of a Participant's Accumulation Account includes all Plan Contributions, less expense charges, plus or minus investment earnings and losses, and less benefit payments.

2.2 Beneficiary. "Beneficiary" means the individual, institution, trustee, or estate designated by the Participant to receive benefits.

2.3 Board. "Board" means the Board of Trustees of the University of Oregon or its delegate.

2.4 Code. "Code" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code includes not only the section but any comparable section or sections of any future legislation that amends, supplements, or supersedes the section.

2.5 Compensation. "Compensation" means the individual's salary as defined in ORS 238.005 from an Institution.

However, Compensation does not include an individual's Compensation as defined above in this Section 2.5 for any period for which the individual does not actively participate in this Plan as provided in Article III on annual salary in excess of \$4,800.

2.6 Eligible Employee. "Eligible Employee" means an employee of an Institution with faculty rank hired by an Institution before September 9, 1995, who is not participating in the Oregon Public Universities Optional Retirement Plan and is entitled under ORS 238A.025(3) to receive the benefits provided by ORS chapter 238 for all service performed before, on and after August 29, 2003.

2.7 Employee Plan Contributions. "Employee Plan Contributions" means the contributions by a Participant under this Plan, as required by Section 4.1. These amounts are designated by an Institution as being paid by the Institution and do not reduce the Participant's salary. Consistent with Internal Revenue Service revenue rulings under Code Section 414(h)(2), each Institution states here that all Employee Plan Contributions are paid by the Institution as described in Code Section 414(h)(2) as an additional Institution-funded contribution and thus, although designated by ORS 243.920 as employee contributions, are being paid by the Institution in lieu of such employee contributions. No Participant may opt out of this pick-up arrangement or elect to receive the contributed amounts directly instead of having them paid by the Institution to this Plan.

However, an Institution will not pay Employee Plan Contributions (a) for Participants who are part-time faculty at Portland State University and members of the American Federation of Teachers bargaining unit or (b) for certain federal employees under the Civil Service Retirement System hired through the Oregon State University Extension Service on or after

January 1, 1984. Employee Plan Contributions for such Participants, deducted from Participants' salary, will be made on an after-tax basis. A Participant's after-tax contributions shall be maintained in a separate account from the rest of the Participant's Accumulation Account. Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to that separate account and the rest of the Participant's Accumulation Account. Withdrawals with respect to that separate account shall be debited to only that separate account.

2.8 Fund Sponsor. "Fund Sponsor" means a life insurance or annuity company that provides Funding Vehicles available to Participants under this Plan.

2.9 Funding Vehicles. "Funding Vehicles" means deferred annuities issued for the purpose of funding accrued benefits under this Plan.

2.10 Indemnified Persons. "Indemnified Persons" means any member of the Board; the Plan Sponsor; the Plan Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 9.1, any employee of the Plan Sponsor, Plan Administrator, or any Institution. "Indemnified Person" means one of the Indemnified Persons. Despite the above provisions of this Section 2.10, "Indemnified Persons" and "Indemnified Person" do not include any Fund Sponsor and do not include any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board, the Plan Sponsor, or the Plan Administrator.

2.11 Institution. "Institution" means the Oregon State Board of Higher Education and the following universities while either under its jurisdiction or previously under its jurisdiction but still having an obligation to provide benefits under this Plan:

Eastern Oregon University  
Oregon Health and Science University  
Oregon Institute of Technology  
Oregon State University  
Portland State University  
Southern Oregon University  
University of Oregon  
Western Oregon University

2.12 Institution Plan Contributions. "Institution Plan Contributions" means contributions by an Institution under this Plan, as required by Section 4.1.

2.13 Limitation Year. "Limitation Year" means a calendar year.

2.14 Normal Retirement Age. "Normal Retirement Age" is the last day of the academic year in which age 65 is attained.

2.15 ORS. "ORS" means Oregon Revised Statutes, as amended.

2.16 Participant. "Participant" means any employee of an Institution who participates in this Plan in accordance with Article III.

- 2.17 PERS. "PERS" means the Oregon Public Employees Retirement System.
- 2.18 Plan. "Plan" means the Oregon Public Universities 401(a) Defined Contribution Plan.
- 2.19 Plan Contributions. "Plan Contributions" means Employee Plan Contributions and Institution Plan Contributions.
- 2.20 Plan Sponsor. "Plan Sponsor" means the University of Oregon.
- 2.21 Plan Year. "Plan Year" means:
- (a) Before July 1, 2013, the Plan Year was the twelve consecutive month period beginning on July 1 and ending on June 30.
  - (b) July 1, 2013, through December 31, 2013, will be a short Plan Year.
  - (c) Beginning January 1, 2014, the Plan Year will be the twelve consecutive month period beginning on January 1 and ending on December 31.
- 2.22 Severance from Employment. "Severance from Employment" means permanent termination of the Participant's employment with all the universities named in Section 2.10 and with all employers aggregated with any such university under any of Code Sections 414(b), (c), (m), and (o).

ARTICLE III  
ELIGIBILITY FOR PARTICIPATION

3.1 Participation.

- (a) An Eligible Employee who is actively participating in this Plan at the close of July 1, 2013, on annual salary in excess of \$4,800 will continue to actively participate in this Plan on annual salary in excess of \$4,800 until the individual ceases as provided in Section 3.2 to actively participate in this Plan.
- (b) An individual who is not actively participating in this Plan at the close of July 1, 2013, on annual salary in excess of \$4,800, or who thereafter ceases as provided in Section 3.2 to actively participate in the Plan on annual salary in excess of \$4,800, may not thereafter actively participate in this Plan on annual salary in excess of \$4,800 except as provided in Section 3.3.
- (c) An individual who on July 1, 2013, has an amount in the individual's Accumulation Account will remain a participant in this Plan until the amount of the individual's Accumulation Account is reduced to zero, even if the individual has ceased to actively participate in this Plan on annual salary in excess of \$4,800.

Each Participant is entitled to the benefits and is bound by all of the terms, provisions, and conditions of this Plan, including any and all amendments which from time to time may be adopted, including the terms, provisions, and conditions of any contract and/or certificate under this Plan.

3.2 Cessation of Active Participation. During the first 60 days of any calendar year, an individual may elect to cease to actively participate in this Plan on annual salary in excess of \$4,800 by filing with the Board a written (i) cancellation of the individual's prior election to be assisted by the Board under ORS 243.910(1) and (ii) election of full participation in PERS on annual salary in excess of \$4,800. An individual will also cease to actively participate in this Plan on annual salary in excess of \$4,800 when:

- (a) His or her employment is reduced to less than the FTE equivalent of 600 hours per twelve-month period (unless active participation is pursuant to a retirement incentive agreement between a Participant and an Institution);
- (b) He or she is retired or separated from employment with the Institution;
- (c) He or she is transferred/reclassified to a position that does not qualify under ORS 243.910 to 243.945 for active participation in this Plan; or
- (d) This Plan is terminated.

3.3 Restoration of Active Participation.

- (a) During the first 60 days of any calendar year, an Eligible Employee who has cancelled his or her prior election to be assisted by the Board under ORS 243.910(1) and is not prevented by Section 3.2.(a), (b), (c), or (d) from actively

participating in this Plan may again actively participate in this Plan on annual salary in excess of \$4,800 by filing with the Board a written election to be assisted by the Board under ORS 243.920(1).

- (b) An individual who ceased as provided in Section 3.2(a), (b), or (c) to actively participate in this Plan and does not have in effect a cancellation of the individual's prior election to be assisted by the Board under ORS 243.910(1) will again become an active participant in this Plan on annual salary in excess of \$4,800 on the first date that none of Section 3.2(a), (b), (c), or (d) prevents the individual from actively participating in this Plan, but only if on that date the individual is an Eligible Employee.

ARTICLE IV  
PLAN CONTRIBUTIONS

4.1 Plan Contributions. For each individual actively participating in this Plan as provided in Article III on annual salary in excess of \$4,800, after contributions to PERS have been made on the first \$4,800 of the individual's Compensation for a calendar year, Plan Contributions will be made at least yearly in accordance with the following schedule:

Plan Contributions as a Percentage of the Individual's Compensation in Excess of  
\$4,800 for the Calendar Year

<u>By the Participant*</u>	<u>By the Institution</u>	<u>Total</u>
6%	6%	12%

\*Such amounts are Employee Plan Contributions as defined in Section 2.7.

During a paid leave of absence, Plan Contributions will continue to be made for a Participant on the basis of Compensation then being paid by an Institution.

4.2 Allocation of Plan Contributions. Plan Contributions under Section 4.1 shall be forwarded to the Fund Sponsor(s) of the Funding Vehicle(s) selected by a Participant, in accordance with the procedures established by the Plan Sponsor, and may be allocated by the Participant to one or more Funding Vehicle(s) in whole-number percentages. At least as frequently as once a month, a Participant may change his or her allocation of future Plan Contributions to such Funding Vehicle(s).

4.3 Institution Transmittals to Fund Sponsors. Each Institution will determine the total amount of contributions to be made for each Participant from time to time on the basis of its books and records and in accordance with the provisions of this Article. When each contribution payment is made by the Institution, the Institution will prepare a statement showing the name of each Participant and the portion of the payment which is made for him or her, and will deliver the statement to the appropriate Fund Sponsor(s) with the contributions payment. Any determination and contribution payment by the Institution, which is delivered to the Fund Sponsor(s), is final and binding on all Participants, their Beneficiaries or contingent annuitants, or any other person or persons claiming an interest in or derived from the contributions payment.

4.4 Records and Reports. Records for each Participant under this Plan are maintained on a calendar year basis. At least once a year the Fund Sponsor(s) will send each Participant a report summarizing the status of his or her Accumulation Account(s) as of December 31 each year. Similar reports or illustrations may be obtained by a Participant upon termination of employment or at any other time by direct request to the Fund Sponsor.

4.5 Limitations. Notwithstanding anything to the contrary contained in this Plan, the obligation of each Institution to make contributions is subject to the provisions relating to the amendment and termination of this Plan.

4.6 No Reversion. Under no circumstances or conditions will any contribution of an Institution revert to, be paid to, or inure to the benefit of, directly or indirectly, the Institution.

However, in the event that Plan Contributions are made by an Institution by mistake of fact, these Plan Contributions may be returned to the Institution within one year of the date that Plan Contributions were made.

ARTICLE V  
FUND SPONSORS/FUNDING VEHICLES

5.1 Fund Sponsors/Funding Vehicles. Plan Contributions are invested in one or more Funding Vehicles available to Participants under this Plan. The Fund Sponsors and their Funding Vehicles are as follows:

- (a) Teachers Insurance and Annuity Association of America (TIAA), whose Funding Vehicle is the TIAA Retirement Annuity Contract.
- (b) College Retirement Equities Fund (CREF), whose Funding Vehicle is the CREF Retirement Unit-Annuity Certificate.

5.2 Fund Transfers. Accumulation Account investments in any Funding Vehicle are subject to any restrictions imposed by the Funding Vehicle, or by the Fund Sponsor with respect to the Funding Vehicle, on the transfer of an amount of the Accumulation Account within the Funding Vehicle or to another Funding Vehicle.

ARTICLE VI  
VESTING

6.1 Vesting. The amount of an individual's Accumulation Account is at all times 100% vested and nonforfeitable, including at Normal Retirement Age.

ARTICLE VII  
BENEFITS

- 7.1 Retirement Benefits. Upon a Participant's:
- (a) Severance from Employment; or
  - (b) Retirement under the terms of a retirement incentive program approved by an Institution and attainment of Normal Retirement Age or, effective for distributions after June 30, 2007, age 62,

the Participant is entitled under the terms of his or her individually-owned TIAA and/or CREF Retirement Annuities to receive a monthly or periodic income under one of the options set forth in the TIAA contract(s) or CREF certificate(s).

A Participant who becomes entitled to receive a monthly or periodic income as provided in the preceding paragraph may alternatively elect to receive a cash withdrawal of the amount of the Participant's Accumulation Account as permitted by the Participant's Funding Vehicles and this Section 7. Such a Participant is not required to have begun receiving PERS monthly retirement benefits to request cash withdrawal, but must be eligible to receive PERS monthly retirement benefits to elect cash withdrawal of the Institution Plan Contributions TIAA and/or CREF accounts.

7.2 Death Benefits. In the event a Participant dies prior to commencement of retirement benefit payments, the full current value of the Accumulation Account(s) is then payable to the Beneficiary or Beneficiaries named by the Participant, under one of the options offered by TIAA-CREF.

7.3 Application for Benefits. Procedures for receipt of benefits are initiated by writing directly to TIAA-CREF. Benefits provided under TIAA Retirement Annuity contract(s) or CREF Retirement Unit-Annuity Certificate(s) to which Plan Contributions have been applied will be payable by TIAA-CREF upon receipt of a satisfactorily completed application for benefits and supporting documents. The necessary forms will be provided to the Participant or the Beneficiary by TIAA-CREF.

ARTICLE VIII  
NON-ALIENATION; ASSIGNMENT TO ALTERNATE PAYEE

8.1 Non-Alienation of Retirement Rights or Benefits. No benefit under this Plan may at any time be subject in any manner to alienation, encumbrance, the claims of creditors or legal process to the fullest extent permitted by law. No person will have power in any manner to transfer, assign, alienate, or in any way encumber his or her benefits under this Plan, or any part thereof, and any attempt to do so will be void and of no effect. This Section 8.1 is subject to Section 8.2 and does not apply to the extent otherwise provided in Oregon or federal law.

8.2. Assignment to Alternate Payee. Despite any contrary provision of this Plan except Section 12.1, to the extent required by and subject to the restrictions of ORS 237.600, a Participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the Participant or other beneficiary) if and to the extent expressly provided for in the terms of any court decree of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation.

- (a) This Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.
- (b) Neither the Plan Sponsor, any Institution nor this Plan will charge or collect out of the benefits payable to the Participant or the alternate payee any administrative expenses or related costs incurred by the Plan Sponsor, any Institution or this Plan in obtaining data or making calculations necessary by reason of ORS 237.600 in excess of the amount permitted under ORS 237.600(5).
- (c) This Section 8.2 applies to a Participant and an individual who Section 12.14 requires be treated the same as the Participant's spouse or former spouse in the same manner as this Section 8.2 applies to a Participant and the Participant's spouse or former spouse, except that this Section 8.2 does not allow this Plan to distribute a benefit to an individual who Section 12.14 requires be treated the same as a Participant's spouse or former spouse (or other person with respect to whom the distribution does not satisfy the requirements of Code Section 414(p)(11)) if the Participant has not attained age 62 or separated from employment with the employer (within the meaning of Code Section 414(b), (c), (m), and (o)) at the time of the distribution.

ARTICLE IX  
ADMINISTRATOR

9.1 Plan Administrator. The Board or its delegate is the Plan Administrator of this Plan, and is responsible for enrolling Participants, sending Plan Contributions for each Participant to TIAA-CREF, and for performing other duties required for the operation of this Plan. The Plan Administrator will act through persons designated from time to time. Any one of such designees may act for the Oregon University System as Plan Administrator without the consent of any of the others.

9.2 Authority of the Plan Administrator. The Plan Administrator has all the powers and authority expressly conferred upon it herein and further the sole right and discretionary authority to interpret and construe this Plan, and to determine any disputes arising under it. In exercising these powers and authority, the Plan Administrator will at all times exercise good faith, apply standards of uniform application, and refrain from arbitrary action. The Plan Administrator may employ attorneys, agents, and accountants as it finds necessary or advisable to assist it in carrying out its duties.

9.3 Action of the Plan Administrator. Any action taken by the Plan Administrator which is authorized, permitted, or required under this Plan and is in accordance with a TIAA-CREF's contractual obligations is final and binding upon the Plan Administrator, the Plan Sponsor, each Institution, and all persons who have or who claim an interest under this Plan, and all third parties dealing with the Plan Administrator, the Plan Sponsor or an Institution.

ARTICLE X  
AMENDMENT AND TERMINATION

10.1 Amendment and Termination. While it is expected that this Plan will continue indefinitely, the Plan Sponsor reserves the right at any time to amend, otherwise modify, or terminate this Plan, or to discontinue any further contributions or payments under this Plan, by resolution of the Board or its delegate. As provided in, and only to the extent required by, Code Section 401(a)(7) as in effect on September 1, 1974 and Treasury Regulation Section 1.401-6, upon the termination of this Plan or upon the complete discontinuance of contributions under this Plan, the rights of each employee to benefits accrued to the date of such termination or discontinuance, to the extent then funded, or the rights of each employee to the amounts credited to the employee's account at such time, are nonforfeitable.

10.2 Limitation. Notwithstanding the provisions of Section 10.1, no amendment or termination of this Plan may cause any asset of the Funding Vehicles to be used for or diverted to any purpose other than for the exclusive benefit of Participants or their beneficiaries and defraying reasonable expenses of administering this Plan and the Funding Vehicles and, except as may be required for this Plan to be a qualified plan under Code Section 401(a), no amendment or termination of this Plan will reduce the amount of a Participant's Accumulation Account on the date the amendment or termination is adopted or affect any obligation of an Institution to make contributions with respect to salary earned by Participants before the date of the amendment or termination is adopted. Any determination or recommendation by the Internal Revenue Service or the Plan Sponsor's or Plan Administrator's counsel will be sufficient as to establish that an amendment is required for this Plan to be a qualified plan under Code Section 401(a).

ARTICLE XI  
MISCELLANEOUS

11.1 Plan Non-Contractual. Nothing contained in this Plan will be construed as a commitment or agreement on the part of any person to continue his or her employment with an Institution, and nothing contained in this Plan will be construed as a commitment on the part of the Institution to continue the employment or the rate of salary of any person for any period, and all employees of the Institution will remain subject to discharge to the same extent as if this Plan had never been put into effect.

11.2 Claims of Other Persons. The provisions of this Plan will in no event be construed as giving any Participant or any other person, firm, or corporation, any legal or equitable right against an Institution, its officers, employees, or directors, except the rights as are specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.

11.3 Governing Law. Except as provided under federal law, the provisions of this Plan are governed by and construed in accordance with the laws of the State of Oregon.

11.4 Merger, Consolidation, or Transfers of Plan Assets. This Plan will not be merged or consolidated with any other Plan, nor will any of its assets or liabilities be transferred to another Plan, unless, immediately after a merger, consolidation, or transfer of assets or liabilities, each Participant would receive a benefit under this Plan which is at least equal to the benefit he or she would have received immediately prior to a merger, consolidation, or transfer of assets or liabilities (assuming in each instance that this Plan had then terminated).

11.5 Contracts. The terms of each TIAA Retirement Annuity Contract and CREF Retirement Unit-Annuity Certificate, referred to in Section 5.1, are a part of this Plan as if fully set forth in this Plan and the provisions of each are incorporated by reference into this Plan. In cases where there is any inconsistency or ambiguity between the terms of this Plan and those of the TIAA contracts and CREF certificates the terms of this Plan control.

11.6 Indemnification.

- (a) The Board agrees to indemnify Indemnified Persons for all acts taken in carrying out his, her, or their responsibilities under the terms of the Plan. This indemnification for all acts is intentionally broad but shall not provide indemnification for gross negligence, willful misconduct, embezzlement, or diversion of Plan funds for the benefit of the Indemnified Person. The Board agrees to indemnify Indemnified Persons for all expenses of defending an action, including all legal fees for counsel selected with the Board's consent and other costs of such defense. The Board shall also indemnify Indemnified Persons for any monetary recovery in any court or arbitration proceeding. In addition, if the claim is settled out of court with the concurrence of the Board, the Board shall indemnify Indemnified Persons for any monetary liability under said settlement. The Board shall have the right, but not the obligation, to conduct the defense of Indemnified Persons in any proceeding to which this section applies. The Board may satisfy its obligation under this section in whole or in part through the purchase of a policy or policies of insurance providing equivalent protection.

- (b) Notwithstanding the foregoing, the indemnification provided for in this Section 11.6 shall be subject to any applicable limitations under Article XI, Section 7, of the Oregon Constitution, or the Oregon Tort Claims Act, ORS 30.260 to 30.300.

11.7 Limitation of Liability. Subject to any requirements of the Code:

- (a) Except as provided in section 11.7(b) below, none of the following persons is liable to any person for any act or failure to act under or with respect to the Plan where the act or failure to act is in good faith: the Board (and any member of the Board); the Plan Sponsor; the Plan Administrator; any Institution; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 9.1, any employee of the foregoing. This section is not intended, and will not be construed, to expand the duties or liability of any of the foregoing persons beyond their duties and liabilities in the absence of this section.
- (b) The exoneration from liability in Section 11.7(a) above does not apply to any Fund Sponsor and does not apply to any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board or as an employee of the Plan Sponsor, Plan Administrator or an Institution.
- (c) Nothing in the Plan and Section 11.7(a) above, constitutes a waiver of the sovereign immunity of the State of Oregon or a waiver of any other defense or right of any of the persons described in Section 11.7(a) above.

ARTICLE XII  
REQUIRED PROVISIONS

12.1 Required Starting Date.

- (a) For purposes of this Section 12.1:
- (i) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.
  - (ii) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.
  - (iii) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.
  - (iv) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).
  - (v) Any distribution required under the incidental death benefit requirements of Code Section 401(a) will be treated as a distribution required under this Section 12.1.
- (b) The entire interest of each participant in this Plan:
- (i) Will be distributed to the participant no later than the Required Starting Date; or
  - (ii) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).
- (c) If the distribution of the participant's interest has begun in accordance with Section 12.1(b)(ii) and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 12.1(b)(ii) as of the date of the participant's death.
- (d) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 12.1(b)(ii), the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury

regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

- (e) With respect to a Designated Beneficiary who is the participant's surviving spouse:
  - (i) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 12.1(d) will not be earlier than the date on which the participant would have attained age 70½; and
  - (ii) If the surviving spouse dies before the distributions to the spouse start, Section 12.1(c) and (d) will be applied as if the spouse were the participant.
- (f) Effective for calendar years beginning after December 31, 2008:
  - (i) The requirements of this Section 12.1, except this Section 12.1(f), do not apply for calendar year 2009.
  - (ii) Installment payments that a Participant, Beneficiary, or alternate payee elected to receive and that, but for Section 12.1(f)(i) above, would include payments required for calendar year 2009 under this Section 12.1, will continue to be made except to the extent the Participant, Beneficiary, or alternate payee elects not to receive the payments for calendar year 2009, but this Section 12.1(f)(ii) does not allow a Participant, Beneficiary, or alternate payee to elect not to receive payments being made under an irrevocable annuity.
  - (iii) The Required Starting Date with respect to any individual will be determined without regard to this Section 12.1(f) for purposes of applying this Section 12.1 for calendar years after 2009.
  - (iv) The 5-year period described in Section 12.1(d) will be determined without regard to calendar year 2009.
- (g) Despite any contrary provision of this Plan except Section 12.1(f), this Plan will apply the minimum distribution requirements of Code Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:
  - (i) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under Code Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.
  - (ii) With respect to distributions made for the 2001 calendar year, the regulations under Code Section 401(a)(9) that were proposed on January 17, 2001.

- (iii) With respect to distributions made for calendar years beginning on or after January 1, 2002, the regulations under Code Section 401(a)(9), including the incidental death benefit requirement of Code Section 401(a)(9)(G).
  - (iv) With respect to distributions made for any calendar year, the provision in Treasury Regulation Section 1.401(a)(9)-1 Q&A-2(d), as published in 74 Fed. Reg. 45993 (September 8, 2009), treating a governmental plan (within the meaning of Code Section 414(d)) as having complied with Code Section 401(a)(9) for all years to which Code Section 401(a)(9) applies to the plan if the plan complies with a reasonable and good faith interpretation of Code Section 401(a)(9).
- (h) This Section 12.1:
- (i) Overrides any distribution options in this Plan inconsistent with Code Section 401(a)(9).
  - (ii) Applies to Plan Years beginning after June 30, 1989.

12.2 Annual Compensation Limit. This Section 12.2 applies to Plan Years beginning after December 31, 1995, and Limitation Years beginning after June 30, 2007. Except for purposes of Sections 12.6 and 12.8, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under this Plan for any Plan Year is limited to the annual compensation limit under Code Section 401(a)(17)(A) (\$150,000 for Plan Years beginning before January 1, 2002, and \$200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with Code Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of Code Section 414(q)(6) will apply, except that in applying such rules the term "family" will include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of Code Section 401(a)(17) and the Treasury regulations thereunder are incorporated into this Plan by this reference.

12.3 Direct Rollovers. Despite any contrary provision of this Plan that would otherwise limit a distributee's election under this Section 12.3, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions apply to this Section 12.3:

- (a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including any of the following:
  - (i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary (within the

meaning of Code Section 402(c)(4)(A)(i)), or for a specified period of 10 years or more.

- (ii) Any distribution to the extent such distribution is required under Code Section 401(a)(9). As provided in Code Section 402(c)(4), if all or any portion of a distribution during calendar year 2009 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under Code Section 401(a)(9) had applied during calendar year 2009, such distribution shall not be treated as an Eligible Rollover Distribution. The determination of any distribution required under Code Section 401(a)(9) that is ineligible for rollover for a designated beneficiary described in Section 12.3(c)(iv) will be made in accordance with Q&A-17 and -18 of Internal Revenue Service Notice 2007-7, 2007-5 I.R.B. 395, or later guidance by the Internal Revenue Service or in Treasury regulations.
  - (iii) For distributions made before January 1, 2002, the portion of any distribution that is not includible in gross income.
  - (iv) For distributions made after December 31, 2001, any distribution that is made upon hardship (within the meaning of Code Section 402(c)(4)(C)) of the employee.
  - (v) Unless the Plan Administrator affirmatively elects to the contrary, any minimum amount permitted by Code Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.
  - (vi) Any other distribution designated in Treasury regulations, or by the Commissioner of Internal Revenue Service pursuant to Treasury regulations, as not an eligible rollover distribution within the meaning of Code Section 402(c)(4).
- (b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:
- (i) An individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract), including, for distributions made after December 31, 2007, a Roth IRA described in Code Section 408A, except that, for taxable years beginning before January 1, 2010, an individual retirement plan does not include a Roth IRA if, for the taxable year of the distribution to which the direct rollover relates, (1) the taxpayer's adjusted gross income (as determined under Code Section 408A(c)(3)) exceeds \$100,000 or (2) the taxpayer is a married individual filing a separate return.
  - (ii) A qualified plan described in Code Section 401(a) or 403(a).

- (iii) For distributions made after December 31, 2001, an annuity contract described in Code Section 403(b).
- (iv) For distributions made after December 31, 2001, an eligible deferred compensation plan described in Code Section 457(b) maintained by an eligible employer described in Code Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from this Plan.

However:

- (v) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract).
- (vi) In the case of a direct rollover that is not on behalf of a designated beneficiary described in Section 12.3(c)(iv) and that includes an amount that is not includible in gross income in a distribution made after December 31, 2001:
  - (1) If the distribution is made in a tax year beginning before January 1, 2007, an eligible retirement plan is only:
    - (A) A qualified defined contribution plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible; or
    - (B) An individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract).
  - (2) If the distribution is made in a tax year beginning after December 31, 2006, an eligible retirement plan is only:
    - (A) A qualified trust described in Code Section 401(a) or 403(a) or an annuity contract described in Code Section 403(b) which trust or contract provides for separate accounting for amounts transferred in the direct rollover (including earnings thereon), including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible; or
    - (B) An individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract).

- (vii) In the case of an eligible rollover distribution for a designated beneficiary described in Section 12.3(c)(iv), an eligible retirement plan is only an individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract and including, for distributions made after December 31, 2007, a Roth IRA described in Code Section 408A) established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of Code Section 408(d)(3)(C)) pursuant to Code Section 402(c)(11), except that, for taxable years beginning before January 1, 2010, an individual retirement plan does not include a Roth IRA if, for the taxable year of the distribution to which the direct rollover relates, (1) the taxpayer's adjusted gross income (as determined under Code Section 408A(c)(3)) exceeds \$100,000 or (2) the taxpayer is a married individual filing a separate return.
  
- (c) Distributee: A distributee includes any of the following:
  - (i) An employee or former employee.
  - (ii) An employee or former employee's surviving spouse.
  - (iii) An employee's or former employee's spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p).
  - (iv) Effective for distributions made on or after December 31, 2007, a designated beneficiary. For this purpose, a designated beneficiary is an employee's or former employee's beneficiary meeting either of the following requirements:
    - (1) The beneficiary:
      - (A) Is an individual and a designated beneficiary (as defined in Code Section 401(a)(9)(E)) of the employee or former employee;
      - (B) Is not the employee's or former employee's surviving spouse; and
      - (C) Is not an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), who is the employee's or former employee's spouse or former spouse; or
    - (2) The beneficiary is a trust maintained for the benefit of one or more designated beneficiaries (as defined in Code Section 401(a)(9)(E)) of the employee or former employee.

- (d) Direct rollover: A direct rollover is a payment by this Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the notice under Code Section 402(f) is given to the distributee if (1) the Plan Administrator clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution. For Plan Years beginning before January 1, 2010, the previous sentence does not require that a designated beneficiary described in Section 12.3(c)(iv) be given the notice under Code Section 402(f).

12.4 Automatic Rollovers. Despite any contrary provision of this Plan, the Plan Administrator will cause any eligible rollover distribution described in this Section 12.4 to be paid in a direct rollover to an individual retirement plan designated by the Plan Administrator and will notify the participant in writing (either separately or as part of the notice under Code Section 402(f)) that the distribution may be transferred to another individual retirement plan. An eligible rollover distribution is described in this Section 12.4 if:

- (a) The distribution (1) is made after December 31, 2005, (2) is more than \$1,000, (3) is made with respect to a participant before the participant attains the later of age 62 or Normal Retirement Age, and (4) may be made without the participant's consent; and
- (b) The participant does not elect to have the distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly.

The definitions in Section 12.3 apply to this Section 12.4, except that the individual retirement plan is designated by the Plan Administrator, not specified by the participant. For purposes of this Section 12.4, an individual retirement plan is an individual retirement plan described in Code Section 7701(a)(37) but does not include a Roth IRA.

12.5 Benefits for Military Service.

- (a) Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of this Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).
- (b) However, effective for deaths and disabilities occurring on or after January 1, 2007, this Plan will not apply Code Section 414(u)(9) (about treatment in the case of death or disability resulting from active military service) as added by section 104(b) of Public Law No. 110-245, the Heroes Earnings Assistance and Relief Tax Act of 2008; and therefore, for benefit accrual purposes, this Plan will not treat an individual who dies or becomes disabled while performing qualified military service with respect to the employer maintaining this Plan as if the individual has resumed employment in accordance with the individual's reemployment rights under chapter 43 of title 38, United States Code, on the day

preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

- (c) An individual receiving a differential wage payment from an Institution will be treated as an employee of the Institution as to the differential wage payment. The differential wage payment will be treated as compensation, but only for purposes of Section 12.7. A differential wage payment is any payment that:
  - (i) Is made by an Institution to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days; and
  - (ii) Represents all or a portion of the wages the individual would have received from the Institution if the individual were performing service for the Institution.

This Section 12.5(c) does not entitle any employee or former employee of an Institution to a differential wage payment. This Section 12.5(c) applies to years beginning after December 31, 2008, and implements, and will be interpreted and administered consistent with, section 414(u)(12).

- (d) In the case of a participant who dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under this Plan had the participant resumed and then terminated employment on account of death. This Section 12.5(d) applies to deaths occurring on or after January 1, 2007, and implements, and will be interpreted and administered consistent with, Code Section 401(a)(37).

12.6 Limit on Annual Additions for Limitation Years Beginning After December 31, 1988, and Before July 1, 2007. This Section 12.6 applies to Limitation Years beginning after December 31, 1988, and before July 1, 2007.

- (a) Despite any contrary provision of this Plan, the annual additions credited to any participant's accounts under this Plan for any Limitation Year may not exceed the lesser of the dollar limitation in Code Section 415(c)(1)(A) or 25% (100% for Limitation Years beginning after December 31, 2001) of the participant's compensation (as defined in Section 12.9). The dollar limit in this Section 12.6(a) will be annually adjusted as follows:
  - (i) For increases in the cost of living in accordance with Code Section 415(d).
  - (ii) For Limitation Years beginning before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under Code Section 415(b)(1)(A).
- (b) In the case of any participant in more than one defined contribution plan of the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after

applying Code Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts under this Plan as provided above will be reduced, to the extent required to comply with Code Section 415, by the aggregate of the amount of the annual additions to the participant's accounts under such other plans.

- (c) If the annual additions exceed the limitations, the excess amounts will be held unallocated in a suspense account and will be applied to reduce further contributions by the employer to this Plan.
- (d) The limitations in this Section 12.6 will be applied according to adjustments described in and the provisions of Code Sections 415 and 419A(d) and Treasury regulations and guidance by the Internal Revenue Service under Code Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), which are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of Code Sections 415(c) (about limitation for defined contribution plans), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

12.7 Limit on Annual Additions for Limitation Years Beginning After June 30, 2007.

This Section 12.7 applies to Limitation Years beginning after June 30, 2007.

- (a) Despite any contrary provision of this Plan, the annual additions credited to any participant's accounts under this Plan for any Limitation Year may not exceed the lesser of the dollar limitation in Code Section 415(c)(1)(A) or 100% of the participant's compensation (as defined in Section 12.10). The dollar limit in this Section 12.7(a) will be annually adjusted pursuant to Code Section 415(d).
- (b) In the case of any participant in more than one defined contribution plan of the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after applying Code Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts under this Plan as provided above will be reduced, to the extent required to comply with Code Section 415, by the aggregate of the amount of the annual additions to the participant's accounts under such other plans.
- (c) The limitations in this Section 12.7 will be applied according to adjustments described in and the provisions of Code Sections 415 and 419A(d) and Treasury regulations and guidance by the Internal Revenue Service under Code Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), which are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of Code Sections 415(c) (about limitation for defined contribution plans), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund). As provided in Treasury Regulation Section 1.415(a)-1(d)(3)(ii) (April 5, 2007), this Plan will be applied according to the default rules under Code Section 415 except

where this Plan specifies a permitted optional manner in which Code Section 415 is to be applied in variance from the default rule.

12.8 Combined Limit on Benefits and Annual Additions for Limitation Years Beginning After December 31, 1988, and Before January 1, 2000. This Section 12.8 applies to Limitation Years beginning after December 31, 1988, and before January 1, 2000. Despite any contrary provision of this Plan:

- (a) If a participant is a participant in another defined contribution plan or a defined benefit plan of the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after applying Code Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of Code Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of Code Section 415(e)) for such aggregate defined contribution plans for any Limitation Year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under such defined benefit plans will be reduced pro rata to the extent necessary for such sum not to exceed 1.0.
- (b) The limitations in this Section 12.8 will be applied according to the adjustments described in and the provisions of Code Sections 415 and 419A(d) and Treasury regulations and guidance by the Internal Revenue Service under Code Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), which are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of Code Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

12.9 Compensation for Purposes of Limits for Limitation Years Beginning After December 31, 1988, and Before July 1, 2007. This Section 12.9 applies to Limitation Years beginning after December 31, 1988, and before July 1, 2007. For purposes of Sections 12.6 and 12.8, "compensation" means wages within the meaning of Code Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

- (a) For Limitation Years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in Code Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includible in the gross income of the participant by reason of Code Section 125 or 457.
- (b) For Limitation Years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includible in the gross income of the participant by reason of Code Section 132(f)(4).

- (c) Effective January 1, 2002, "compensation" includes any additional elective deferral under Code Section 414(v) contributed by the employer.
- (d) For purposes of Sections 12.6 and 12.8, the amounts included in a participant's compensation under this Section 12.9 will be based on such amounts from the employer (within the meaning of Code Section 414(b), (c), (m) (applicable to Plan Years beginning after November 30, 1980), and (o) (effective July 18, 1984), after applying Code Section 415(h)).

12.10 Compensation for Purposes of Limit on Annual Additions for Limitation Years Beginning After June 30, 2007. This Section 12.10 applies to Limitation Years beginning after June 30, 2007. For purposes of Section 12.7, "compensation" means wages within the meaning of Code Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). For purposes of Section 12.7:

- (a) Compensation includes any elective deferral (as defined in Code Section 402(g)(3)), or additional elective deferral under Code Section 414(v), contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includible in the gross income of the participant by reason of Code Section 125, 132(f)(4), or 457.
- (b) Code Section 415(c)(3)(C) (about special rules for permanent and total disability) and Treasury Regulation Section 1.415(c)-2(g)(4) (about permanent and total disability of defined contribution plan participant) will apply to with respect to all participants.
- (c) The amounts included in a participant's compensation under this Section 12.10 will be based on such amounts from the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after applying Code Section 415(h)).
- (d) Compensation will be limited as provided in Section 12.2.
- (e) Compensation for any Limitation Year is the compensation (as defined in the above provisions of this Section 12.10) actually paid or made available to the participant (or, if earlier, includible in the gross income of the participant) during such year. For purposes of this Section 12.10(e):
  - (i) Compensation is treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election described in Section 12.10(a).
  - (ii) Compensation includes only those amounts described in the above provisions of this Section 12.10 that are:
    - (1) Paid or treated as paid to the employee (in accordance with the above provisions of this Section 12.10(e)) before the employee's

severance from employment (as defined in Treasury Regulation Section 1.415(a)-1(f)(5)) with the employer; or

- (2) Paid after such severance and by the later of 2½ months after such severance or the end of the Limitation Year that includes the date of such severance and which:
  - (A) Are regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
  - (B) Would have been paid to the employee prior to a severance from employment if the employee had continued in employment with the employer.

Thus compensation does not include severance pay if paid after such severance.

- (iii) Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by employer to compensate an employee for lost wages are compensation for the Limitation Year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in compensation under this Section 12.10. This Section 12.10(e)(iii) applies only to back pay that this Section 12.10(e)(iii) would allocate to a Limitation Year beginning after June 30, 2007.

12.11 Leased Employees. This Section 12.11 applies to Plan Years and Limitation Years beginning after December 31, 1988.

- (a) A Leased Employee as such may not participate in this Plan.
- (b) For periods after a Leased Employee has performed services for an Institution (or for the Institution and related persons determined in accordance with Code Section 414(n)(6)(A)) on a substantially full-time basis for a period of at least one year:
  - (i) The Leased Employee will be considered an employee of the Institution for purposes of Sections 12.2 and 12.8 through 12.10; and
  - (ii) For purposes of Sections 12.8 through 12.10, contributions or benefits provided by the Leasing Organization that are attributable to services performed for the Institution will be treated as provided by the Institution.
- (c) A "Leased Employee" is any person (other than an employee of an Institution) who pursuant to an agreement between an Institution and any other person (the "Leasing Organization") has performed services for the Institution (or for the

Institution and related persons determined in accordance with Code Section 414(n)(6)(A)) on a substantially full-time basis for a period of at least one year, and (for years beginning after December 31, 1996) such services are performed under primary direction or control by the Institution or (for years beginning before January 1, 1997) such services are of a type historically performed, in the business field of the Institution, by employees.

- (d) An individual will not be considered a Leased Employee if (i) the individual is covered by a money purchase pension plan providing (1) a nonintegrated employer contribution rate of at least 10% of compensation (as defined in Code Section 414(n)(5)(iii)), (2) immediate participation (after applying the exceptions from immediate participation provided in Code Section 414(n)(5)(B)) and (3) full and immediate vesting and (ii) Leased Employees do not constitute more than 20% of an Institution's nonhighly compensated work force (as defined in Code Section 414(n)(5)(ii)).
- (e) For purposes of this Section 12.11, an "Institution" includes all persons aggregated with the Institution pursuant to Code Section 414(b), (c), (m), or (o).
- (f) The requirements of Code Section 414(n) and the Treasury regulations thereunder are incorporated into this Plan by this reference.

12.12 Annuity Contracts. Benefits may be paid by distributing an annuity contract purchased for the participant, alternate payee, or beneficiary (the payee).

- (a) Delivery of any such contract will be in full satisfaction of the rights under this Plan of the payee and the payee's joint annuitant, beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under this Plan with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.
- (b) Any such contract must be nontransferable and may not pay benefits that exceed the limitations of Section 12.7.
- (c) The terms of this Plan control in the event of any conflict between the terms of this Plan and the terms of any such contract.

12.13 Oregon Family Fairness Act. This Plan will be administered to comply with the Oregon Family Fairness Act, which is ORS 106.300 to 106.340.

*[Signature Page Follows]*

The Plan, as amended and restated herein, is adopted by the Board through its delegate.

IN WITNESS WHEREOF, the Board, through its delegate, has caused this document to be duly executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

FOR THE UNIVERSITY OF OREGON

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Jamie H. Moffitt, Vice President for Finance & Administration / CFO

# EXHIBIT B

OREGON PUBLIC UNIVERSITIES 403(b) DEFINED CONTRIBUTION PLAN

As Amended and Restated Effective July 1, 2015

OREGON UNIVERSITY SYSTEM 403(b) DEFINED CONTRIBUTION PLAN

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## OREGON PUBLIC UNIVERSITIES 403(b) DEFINED CONTRIBUTION PLAN

### Preamble

The Board of Trustees of the University of Oregon (the "Board") documents the Oregon Public Universities 403(b) Defined Contribution Plan (the "Plan") in this Plan.

This Plan is amended and restated effective July 1, 2015.

The Plan was established effective January 1, 1967, under the authority in ORS 243.910 to 243.940 and section 403(b) of the Internal Revenue Code, as the Oregon State System of Higher Education TIAA-CREF Retirement Plan, to assist faculty rank employees who are members of the Oregon Public Employees Retirement System, and who elect to be so assisted, in the purchase of retirement benefits supplementing the benefits to which those employees are entitled under such System. The Plan is now named the Oregon Public Universities 403(b) Defined Contribution Plan.

The Plan last received contributions in 1989. Effective July 1, 1989, contributions authorized under ORS 243.910 to 243.940 ceased being made to the Plan and started being made to the Oregon State System of Higher Education Defined Contribution Retirement Plan (a plan qualified under section 401(a) of the Internal Revenue Code), now named the Oregon Public Universities 401(a) Defined Contribution Plan.

The Plan is intended to be a governmental plan exempt from titles I and IV of the Employee Retirement Income Security Act of 1974.

The Plan is not part of any other plan or program of the Board.

### Section 1 Definition of Terms Used

The following words and terms, when used in the Plan, have the meaning set forth below.

#### 1.1 "Account"

The account or accumulation maintained for the benefit of any Participant, Beneficiary, or Alternate Payee under an Annuity Contract or a Grandfathered Custodial Account. The Vendor shall establish the following separate Source accounts within a Participant's, Beneficiary's, or Alternate Payee's Account, subject to the Individual Agreements:

- (a) Participant Pre-Tax Elective Deferral Source account, for any elective deferrals (within the meaning of section 402(g)(3)(C) of the Code).
- (b) Participant Pre-Tax Contributions Source account, for any participant pre-tax contributions that are not elective deferrals described in Section 1.1(a) above.

- (c) Employer Contributions Source account, for any employer contributions that are not elective deferrals described in Section 1(a) above or participant pre-tax contributions described in Section 1.1(b) above.
- (d) Participant After-Tax Contributions Source account, for any employee after-tax contributions.
- (e) Rollover Source account, for any eligible rollover distributions received by the Plan before January 1, 2009, or transferred to the Plan before March 1, 2013, as provided in Section 5.2.

The Vendor may also establish additional Source accounts within an Account. Any amount transferred to the Plan as provided in Section 5.2 will be held in the appropriate account described above to the extent provided in Section 5.2(d) or (e).

**1.2 "Account Balance"**

The bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant's Account under all Accounts, including contributions to the Plan for the Participant, the earnings or loss of each Annuity Contract or Grandfathered Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to or for the Participant or the Participant's Beneficiary or Alternate Payee. The Account Balance includes any Source accounts established for eligible rollover distributions received by the Plan before January 1, 2009, or transferred to the Plan before March 1, 2013, as provided in Section 5.2 and any other transfers to the Plan before March 1, 2013, as provided in Section 5.2. A Beneficiary's Account Balance includes any amount credited to an Account or Source account established for the Beneficiary after the Participant's death. An Alternate Payee's Account Balance includes any amount credited to an Account or Source account established for the Alternate Payee.

**1.3 "Administrator"**

The Board of Trustees of the University of Oregon or its delegate. See Section 10.21 for the persons through which the Administrator may act.

**1.4 "Alternate Payee"**

A spouse, former spouse, child, or other dependent of a Participant who is recognized by a domestic relations order, as defined in Section 10.2(b), as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to the Participant.

**1.5 "Annuity Contract"**

A nontransferable contract, as defined in section 403(b)(1) of the Code, established by each Participant individually, that is issued by an insurance

company qualified to issue annuities in the State of Oregon and that includes payment in the form of an annuity.

**1.6 "Beneficiary"**

An individual or any type of entity that is entitled to receive benefits under the Plan after the death of a Participant, subject to Section 7 (relating to Beneficiary).

**1.7 "Board"**

The Board of Trustees of the University of Oregon or its delegate.

**1.8 "Code"**

The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

**1.9 "Contract Exchange"**

An exchange, permitted under § 1.403(b)-10(b)(2) of the Income Tax Regulations, of any part of a Participant's, Beneficiary's, or Alternate Payee's interest in a nontransferable contract as defined in section 403(b)(1) of the Code, or in a custodial account as defined in section 403(b)(7) of the Code, for an interest in another such contract or account. See Section 5.3(b) for prohibited Contract Exchanges.

**1.10 "Employer"**

The University of Oregon.

**1.11 "Funding Vehicles"**

The Annuity Contracts or Grandfathered Custodial Accounts issued for funding amounts held under the Plan and specifically approved by the Employer for use under the Plan. "Funding Vehicle" means one such Annuity Contract or Custodial Account.

**1.12 "Grandfathered Custodial Account"**

A group custodial account, as defined in section 403(b)(7) of the Code, established for each Participant to hold assets of the Plan. On November 23, 2010, the only custodial account agreement to hold assets of the Plan at any time during January 1, 2009, through November 23, 2010, terminated. No custodial account to hold assets of the Plan may be established after November 22, 2010.

**1.13 "Indemnified Persons"**

Any member of the Board; the Employer; the Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 10.21 or 10.22 (relating to designees through which the Administrator or Employer may act), any employee of the Employer or an Institution of Higher Education. "Indemnified Person" means one of the Indemnified Persons. See Section 10.23 (relating to indemnification of

Indemnified Persons). Despite the above provisions of this Section 1.13, "Indemnified Persons" and "Indemnified Person" do not include, and indemnification under Section 10.23 will not be provided for, any Vendor, and do not include, and indemnification under Section 10.23 will not be provided for, any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board or of the Employer or an Institution of Higher Education.

**1.14 "Individual Agreement"**

The agreements between a Vendor and the Employer or a Participant that constitutes or governs a Grandfathered Custodial Account or an Annuity Contract

**1.15 "Institution of Higher Education"**

A public university that was under the control or jurisdiction of the Oregon State Board of Higher Education at any time during 1967 through 1989.

**1.16 "ORS"**

Oregon Revised Statutes, as now in effect or as hereafter amended. All citations to a section or chapter of the ORS are to such section or chapter as it may from time to time be amended or renumbered.

**1.17 "Participant"**

An individual for whom contributions have previously been made under the Plan and who has not received a distribution of his or her entire benefit under the Plan. Contributions have previously been made under the Plan for only faculty rank employees who were appointed or employed by or under the authority of the Oregon State Board of Higher Education.

**1.18 "Plan"**

The Oregon Public Universities 403(b) Defined Contribution Plan.

**1.19 "Related Employer"**

- (a) With respect to the Employer, "Related Employer" means the Employer and any other entity which is under common control with the Employer under section 414(b) or (c) of the Code.
- (b) With respect to an Institution of Higher Education, "Related Employer" means the Institution of Higher Education and any other entity which is under common control with the Institution of Higher Education under section 414(b) or (c) of the Code.
- (c) For this purpose, the Employer shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under Notice 89-23, 1989-1 C.B. 654.

**1.20 "Severance from Employment"**

For purpose of the Plan, Severance from Employment means Severance from Employment with the Employer, all Institutions of Higher Education, and any Related Employer with respect to the Employer or with respect to any Institution of Higher Education.

**1.21 "Source"**

"Source" identifies the origin of funds that flow into or out of an Account that, for purposes of the Plan, must or may be separately accounted for, including but not limited to for purposes of their tax treatment, withdrawal provisions, and contribution limits. The funds Source for each of the Source accounts established under Section 1.1 (defining "Account") is the type of contribution or account for which the Vendor establishes the Source account. For example, the funds Source for a Rollover Source account is eligible rollover distributions received by the Plan before January 1, 2009, or transferred to the Plan before March 1, 2013, as provided in Section 5.2.

**1.22 "Vendor"**

The provider of an Annuity Contract or a Grandfathered Custodial Account.

**Section 2  
Participation and Contributions**

**2.1 Eligibility.**

No individual may become a participant in the Plan on or after January 1, 2009. An individual who is a Participant on January 1, 2009, will remain a Participant until the individual receives a distribution of his or her entire benefit under the Plan. No individual shall be eligible to contribute to the Plan or have any contribution made to the Plan for the individual.

**2.2 Maintenance of Source Accounts.**

Each Source account established under Section 1.1 (defining "Account") by a Vendor for a Participant, Beneficiary, or Alternate Payee (the "account holder") shall be maintained as follows:

- (a) Contributions, transfers, and withdrawals with respect to the account holder of that account's funds Source shall be credited and debited to only that account;
- (b) No contributions or transfers with respect to the account holder other than that account's funds Source and properly attributable earnings shall be credited to that account;
- (c) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to that account and the other accounts under the Annuity Contract or Grandfathered Custodial Account; and

(d) The Plan shall maintain a record of the amount of that account.

**2.3 Information Provided by the Participants.**

Whenever requested by the Administrator or whenever there is a change with respect to such information previously provided, each Participant shall provide to the Administrator any information necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.

**2.4 Obligation to Notify Administrator of Account Errors.**

Within 30 days after receiving a report or statement of the status of an Account the Participant, Beneficiary, or Alternate Payee must inform the Administrator in writing of any error in the report or statement, in a manner that identifies the error with sufficient clarity for the Administrator to act effectively (based on the written information given by the Participant, Beneficiary, or Alternate Payee) to request the Vendor to correct the error. The Participant, Beneficiary, or Alternate Payee shall suffer any loss resulting from failing to so inform the Administrator if by reason of such failure the Administrator is unable to cause the Vendor providing the Annuity Contract or Grandfathered Custodial Account with respect to which the error was made to correct the error at the Vendor's sole expense.

**Section 3**

**Protection of Persons Who Serve in a Uniformed Service**

Despite any contrary provision of the Plan except Section 3.1 below, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code. Without limiting the foregoing:

**3.1 Section 414(u)(9) of the Code not applied.**

The Plan will not apply section 414(u)(9) of the Code (relating to treatment in the case of death or disability resulting from active military service) as added by section 104(b) of Public Law No. 110-245, the Heroes Earnings Assistance and Relief Tax Act of 2008; and therefore, for benefit accrual purposes, the Plan will not treat an individual who dies or becomes disabled while performing qualified military service with respect to the Employer or an Institution of Higher Education as if the individual has resumed employment in accordance with the individual's reemployment rights under chapter 43 of title 38, United States Code, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

**3.2 Additional Benefits Had a Participant Who Died During Uniformed Service Resumed Employment.**

In the case of a Participant who dies while performing qualified military service (as defined in section 414(u) of the Code), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the

period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death. This Section 3.2 implements, and will be interpreted and administered consistent with, sections 401(a)(37) and 403(b)(14) of the Code.

## **Section 4 Benefit Distributions**

### **4.1 Benefit Distributions At Severance from Employment or Other Distribution Event.**

Except as permitted under Section 9.2 (relating to distributions upon termination of the Plan) and Section 10.2 (relating to domestic relations orders), distributions from a Participant's Account may not be made earlier than the earliest of the date, and may be made on or after the earliest date, on which the Participant has a Severance from Employment, retires under the terms of a retirement incentive program approved by the Employer or an Institution of Higher Education and has attained age 62, or dies, and any such distribution shall comply with the requirements of section 401(a)(31)(B) of the Code (relating to automatic distribution as a direct rollover to an individual retirement plan for distributions in excess of \$1,000). Distributions shall otherwise be made in accordance with the terms of the Individual Agreements and this Section 4. A Participant who becomes entitled to receive a distribution as provided in this Section 4.1 may elect to receive a cash withdrawal of the amount of the Participant's Account as permitted by the Individual Agreements and this Section 4. Such a Participant is not required to have begun receiving monthly retirement benefits from the Oregon Public Employees Retirement System to request cash withdrawal, but must be eligible to receive monthly retirement benefits from such System to elect cash withdrawal of the portion of the Participant's Account attributable to employer contributions under ORS 243.930 (net of attributable earnings, losses, and expenses).

### **4.2 Minimum Distributions.**

Each Individual Agreement shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of § 1.408-8 of the Income Tax Regulations, except as provided in § 1.403(b)-6(e) of the Income Tax Regulations. Effective for calendar years beginning after December 31, 2008:

- (a) The minimum distribution requirements of section 401(a)(9) of the Code do not apply for calendar year 2009.
- (b) Installment payments that a Participant, Beneficiary, or Alternate Payee elected to receive and that, but for Section 4.2(a) above, would include payments required for calendar year 2009 under section 401(a)(9) of the

Code, will continue to be made except to the extent the Participant, Beneficiary, or Alternate Payee elects not to receive the payments for calendar year 2009, but this Section 4.2(b) does not allow a Participant, Beneficiary, or Alternate Payee to elect not to receive payments being made under an irrevocable annuity.

- (c) The required beginning date with respect to any individual will be determined without regard to Section 4.2(a) above for purposes of applying section 401(a)(9) of the Code for calendar years after 2009.
- (d) The 5-year period described in section 401(a)(9)(B)(ii) of the Code will be determined without regard to calendar year 2009.

#### **4.3 Exchange of Information.**

The Individual Agreements shall provide for the exchange of information among the Employer or an Institution of Higher Education and the Vendors to the extent necessary to implement the Individual Agreements.

#### **4.4 Rollover Distributions.**

(a) ***Direct Rollovers.***

Subject to Section 4.4(c) below, a Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an Alternate Payee under a domestic relations order, as defined in Section 10.2(b)) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution (as defined in section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Code) specified by the Participant or other distributee in a direct rollover. As provided in section 402(c)(4) of the Code, if all or any portion of a distribution during calendar year 2009 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under section 401(a)(9) of the Code had applied during calendar year 2009, such distribution shall not be treated as an eligible rollover distribution for purposes of section 401(a)(31) or 402(f) of the Code. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the Participant who is an Alternate Payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of section 408(d)(3)(C) of the Code).

(b) ***Vendors to Provide Special Tax Notice.***

Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover

distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

(c) ***Direct Rollovers are Subject to Limitations Under the Code and Individual Agreements.***

The right of a Participant, Beneficiary, and Alternate Payee to elect a direct rollover is subject to any limitations imposed by the Code, Income Tax Regulations, or Internal Revenue Service guidance and to any limitations imposed by the Individual Agreement to the extent consistent with the Code, Income Tax Regulations, and Internal Revenue Service guidance. For example, an Individual Agreement might not allow a direct rollover if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year and might allow a Participant to elect a direct rollover of only a portion of an eligible rollover distribution only if the amount rolled over is at least \$500.

## **Section 5**

### **Rollovers and Grandfathered Transfers to the Plan, Contract Exchanges, and Information Sharing Agreements**

#### **5.1 Rollover Contributions to the Plan Prohibited.**

The Plan will not accept transfers or contributions of eligible rollover distributions, whether by direct rollover or by payment by a Participant, Beneficiary, or Alternate Payee, but will accept eligible rollover distributions transferred to the Plan before March 1, 2013, as provided in Section 5.2.

#### **5.2 Grandfathered Plan-to-Plan Transfers to the Plan.**

- (a) After February 28, 2013, no amount may be transferred to the Plan as provided in this Section 5.2 or as provided in § 1.403(b)-10(b)(3) of the Income Tax Regulations.
- (b) Before March 1, 2013, a transfer of assets may be made to the Plan, as provided in this Section 5.2, for a Participant who is a participant or beneficiary in another plan under section 403(b) of the Code. Such a transfer is permitted only if the other plan provides for the direct transfer to the Plan of the part of the Participant's interest therein that is transferred to the Plan and the Participant is an employee or former employee of the Employer or an Institution of Higher Education. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with § 1.403(b)-10(b)(3) of the Income Tax

Regulations and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.

- (c) The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant immediately before the transfer.
- (d) If the transfer does not constitute a complete transfer of the Participant's interest in the transferor section 403(b) plan, (1) the Plan will treat the amounts transferred as a continuation of a pro rata portion of the Participant's interest in the transferor section 403(b) plan (for example, a pro rata portion of the Participant's interest in any after-tax employee contributions) and (2) the amounts transferred shall be held, accounted for, administered, and otherwise treated in the same manner as an elective deferral described in Section 1.1(a), a participant pre-tax contribution described in Section 1.1(b), an employer contribution described in Section 1.1(c), an employee after-tax contribution described in Section 1.1(d), or an eligible rollover distribution described in Section 1.1(e), as determined by the transferred fund Sources, or in such other manner as is consistent with the requirements under the Code.
- (e) If the transfer constitutes a complete transfer of the Participant's interest in the transferor section 403(b) plan, then, to the extent provided in the Individual Agreements holding such transferred amounts, the amounts transferred shall be held, accounted for, administered, and otherwise treated as described in Section 5.2(d) above.
- (f) However, the Individual Agreement which holds any amount transferred to the Plan under this Section 5.2 must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant whose assets are being transferred that are not less stringent than those imposed on the transferor plan.

### **5.3 Contract Exchanges and Grandfathered Custodial Account Exchanges.**

- (a) ***Permitted Within the Plan.***  
Subject to the terms of the Individual Agreements (including without limitation any restrictions imposed by an Individual Agreement that do not allow such an investment change), a Participant, Beneficiary, or Alternate Payee is permitted to change the investment of his or her Account Balance by transfer of the full or partial Account Balance at least one time each calendar year. However, an investment change (referred to below as a

Contract Exchange) is not permitted unless the conditions in Sections 5.3(b) through (e) below are satisfied.

(b) ***Not Permitted.***

A Participant, Beneficiary, or Alternate Payee is not permitted a Contract Exchange of any part of his or her Account Balance for an interest in a 403(b) contract or custodial account unless the contract or account is part of the Plan and the insurer or custodian with respect to the contract or account is a Vendor under the Plan.

(c) ***Account Balance.***

The Participant, Beneficiary, or Alternate Payee must have an Account Balance immediately after the Contract Exchange that is at least equal to the Account Balance of that Participant, Beneficiary, or Alternate Payee immediately before the Contract Exchange (taking into account the Account Balance of that Participant, Beneficiary, or Alternate Payee under both section 403(b) contracts or custodial accounts immediately before the Contract Exchange).

(d) ***Distribution Restrictions.***

The Individual Agreement with the receiving Vendor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged in the Contract Exchange.

(e) ***Information Sharing Agreement.***

The Employer or an Institution of Higher Education enters into an agreement with the receiving Vendor for the other contract or custodial account under which the Employer and the Vendor will from time to time in the future provide each other with the following information:

- (1) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the Employer or an Institution of Higher Education, to satisfy section 403(b) of the Code, including the following: (i) the Employer providing information as to whether the Participant's employment with the Employer or an Institution of Higher Education is continuing and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions in Section 4.1); and (ii) the Vendor providing information to the Employer or other Vendors concerning the Participant's, Beneficiary's, or Alternate Payee's section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a Vendor to determine the amount of any plan loans and any rollover

accounts that are available to the Participant under the Plan in order to satisfy the financial need for a hardship withdrawal; and

- (2) Information necessary in order for the resulting contract or custodial account and any other contract or custodial account to which contributions have been made for the Participant by the Employer or an Institution of Higher Education to satisfy other tax requirements, including the following: (i) the amount of any plan loan that is outstanding to the Participant in order for a Vendor to determine whether an additional plan loan satisfies the loan limitations of section 72(p) of the Code, so that any such additional loan is not a deemed distribution under section 72(p)(1) of the Code; and (ii) information concerning the Participant's, Beneficiary's, or Alternate Payee's after-tax employee contributions in order for a Vendor to determine the extent to which a distribution is includible in gross income.

#### **5.4 Information Sharing Agreements.**

In the case of a Vendor which is not eligible to receive contributions under the Plan but continues to hold assets of the Plan, the Employer or an Institution of Higher Education will enter into an information sharing agreement as described in Section 5.3(e) above, to the extent the Employer's or the Institution of Higher Education's contract with the Vendor does not provide for the exchange of information described in Sections 5.3(e)(1) and (2) above.

### **Section 6**

#### **Investment of Accounts and Vesting**

##### **6.1 Manner of Investment.**

All amounts contributed to the Plan, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Grandfathered Custodial Accounts. Each Grandfathered Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

##### **6.2 Investment of Accounts.**

Each Participant, Beneficiary, or Alternate Payee shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Grandfathered Custodial Account in accordance with the terms of the Individual Agreements. Subject to the terms of the Individual Agreements (including without limitation any restrictions imposed by an Individual Agreement that do not allow such a transfer), transfers among Annuity Contracts and Grandfathered Custodial Accounts provided by the Vendors under the Plan

may be made at least one time each calendar year to the extent provided in the Individual Agreements and permitted under applicable Income Tax Regulations.

**6.3 Vesting.**

A Participant's, Beneficiary's, and Alternate Payee's Account Balance is at all times fully vested and nonforfeitable.

**6.4 Vendors.**

- (a) The Administrator shall maintain a list of all Vendors under the Plan. Such list is hereby incorporated as part of the Plan.
- (b) Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law.
- (c) In the case of a Vendor which is not eligible to receive contributions under the Plan but that continues to hold assets of the Plan (including a Vendor which has ceased to be a Vendor eligible to receive contributions under the Plan, and a Vendor holding assets under the Plan in accordance with Section 5.2, but that continues to hold assets of the Plan), the Employer shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.

**Section 7  
Beneficiary**

**7.1 Participant's Beneficiary.**

A Participant may deliver to the Vendor a designation of beneficiary designating the Beneficiary or Beneficiaries who are to receive any of the Participant's benefits under the Plan that are payable after the Participant's death.

**7.2 Requirements.**

A designation of beneficiary must be on a written paper document or through an electronic means made available by the Vendor for this purpose and is effective when properly completed by the Participant and delivered to the Vendor during the Participant's life at the place specified in the document or the electronic means or the instructions therefor, and when effective revokes all earlier designations of beneficiary by the Participant with respect to the Participant's Account Balance. However, a designation of beneficiary that applies to only part of a Participant's Account Balance does not apply to any other part of the Participant's Account Balance and does not, as to any other part of the Participant's Account Balance, revoke earlier designations of beneficiary. A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant. A Beneficiary may be an individual or any type of entity.

### **7.3 Default Beneficiary.**

If at the Participant's death there is not an effective designation of beneficiary, or if none of the Beneficiaries designated by the Participant survives the Participant, the Participant's Beneficiary will be the following person or persons in the following order of priority: the Participant's (a) surviving spouse, (b) surviving same-sex domestic partner, (c) surviving children in equal shares, (d) surviving parents in equal shares, or (e) estate. For this purpose (1) "surviving" means survives the Participant and (2) a Participant's surviving same-sex domestic partner is the individual, if any, who the Oregon Family Fairness Act (which is ORS 106.300 to 106.340) requires be treated the same as the Participant's surviving spouse.

### **7.4 Beneficiary's Beneficiary.**

To the extent permitted by the Individual Agreements controlling the Account Balance, after the Participant's death a Beneficiary may designate a beneficiary or beneficiaries of the Beneficiary's Account Balance and the Beneficiary's interest in the Participant's Account Balance, and that beneficiary or those beneficiaries will be the Beneficiary's Beneficiary or Beneficiaries for purposes of the Plan. The designation may be made only as provided in this Section 7 for a designation by a Participant and is subject to all the terms of this Section 7 as if the Participant's Beneficiary were a Participant, except that Section 7.3 applies to determine a Beneficiary's Beneficiary for only any part of the Beneficiary's Account Balance, or the Beneficiary's interest in the Participant's Account Balance, for which the Beneficiary has designated a Beneficiary under this Section 7.4.

### **7.5 Alternate Payee's Beneficiary.**

To the extent permitted by the Individual Agreements controlling the Account Balance and to the extent consistent with the domestic relations order, an Alternate Payee under a domestic relations order, as defined in Section 10.2(b), may designate a beneficiary or beneficiaries of the Alternate Payee's Account Balance and the Alternate Payee's interest in the Participant's Account Balance, and that beneficiary or those beneficiaries will be the Alternate Payee's Beneficiary or Beneficiaries for purposes of the Plan. The designation may be made only as provided in this Section 7 for a designation by a Participant and is subject to all the terms of this Section 7 as if the Alternate Payee were a Participant, except that Section 7.3 applies to determine an Alternate Payee's Beneficiary for only any part of the Alternate Payee's Account Balance, or the Alternate Payee's interest in the Participant's Account Balance, for which the Alternate Payee has designated a Beneficiary under this Section 7.5.

### **7.6 Survivorship and Relationships.**

Whenever application of the Plan depends on the relationship of one individual to another or whether one individual survives another (including without limitation when determining whether an individual is a Beneficiary):

- (a) Oregon law applies to determine whether one individual survives another. For this purpose, (1) the individuals will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act (ORS 105.623 to 105.649) or its successor but does not include Oregon law regarding conflicts of laws. The Uniform Simultaneous Death Act or its successor will be applied by treating the Plan as a pension plan. However, if a Participant's designation of beneficiary requires an individual to survive the Participant's death for a specified period of time in order to be the Participant's Beneficiary, that specified period, and not the 120-hour period in the Uniform Simultaneous Death Act, will apply.
- (b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individuals reside in Oregon and will be applied by treating the Plan as a pension plan.

#### **7.7 Contrary Terms in Individual Agreement.**

Any term in an Individual Agreement that is contrary to a term in this Section 7 applies instead of that term in this Section 7, unless under the Individual Agreement the Plan controls as to that term.

### **Section 8 Claims Procedure**

#### **8.1 Requests for Determination.**

Any time a request for determination of eligibility for participation or benefits distribution is disputed, an interpretation of Plan provisions is disputed, or a Participant, Beneficiary, or Alternate Payee is adversely affected with respect to the Plan by action of a benefits officer of an Institution of Higher Education, a Vendor, or the Administrator, the person (the "Claimant") may submit a claim for determination to the Administrator.<sup>1</sup> The Claimant shall be notified of the Administrator's determination within 90 days after receipt of the claim, unless special circumstances require an extension of time for processing. Such notice will indicate the basis for the determination or interpretation and an explanation of the procedure for requesting an appeal as set forth in this Section 8.

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<sup>1</sup> The Administrator may in its discretion determine that the person acting for the Administrator who determines the claim should be different from any person or persons acting for the Administrator whose decision or action is contested by the Claimant.

## **8.2 Appeal Procedure.**

Any Claimant who has received an adverse determination shall have the right to appeal the Administrator's determination to the Administrator.<sup>2</sup> Such appeal must be in writing and must be made within 60 days after the Claimant is advised of the adverse action. If a written request for appeal is not made within such 60-day period, the Claimant shall forfeit his or her right to an appeal. The Claimant or a duly authorized representative of the Claimant may review all pertinent documents and submit issues and comments to the Administrator.

## **8.3 Consideration of Appeal.**

The Administrator shall consider appeals received under Section 8.2. It may hold a hearing if it deems it necessary and shall issue a written decision affirming, modifying, or setting aside the former action within 120 days after receipt of the written request for appeal, unless special circumstances require an extension of time for processing. A copy of the decision shall be furnished to the Claimant. The decision shall set forth its reasons and pertinent Plan provisions on which it is based.

## **8.4 Final Decision.**

The Administrator's decision on the appeal shall constitute the final decision of the Plan and the Employer and shall be binding upon the Claimant, the Employer, an Institution of Higher Education, the Administrator, and all other persons involved to the maximum extent permitted by law. Any person seeking judicial review of the decision must file a timely appeal with the Oregon Circuit Court of Marion County in Salem, Oregon. The Administrator will inform the Claimant of the right to appeal to the Oregon Circuit Court of Marion County in Salem, Oregon. Any review, judicial or otherwise, of the Administrator's decision shall be based on the record before the Administrator and be limited to whether the Administrator acted arbitrarily or capriciously in the exercise of its discretion. In no event shall such review be *de novo*, as the Administrator has the discretionary authority under Section 10.19 to, among other matters, determine eligibility for benefits and construe the terms of the Plan.

## **8.5 Exhaustion of Remedies.**

- (a) No Claimant may challenge in judicial or administrative proceedings any action or inaction of any of the following persons with respect to the Plan without first exhausting the remedies available under the Plan: the Board (and any member of the Board); the Employer; any Institution of Higher Education; the Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a

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<sup>2</sup> The Administrator may in its discretion determine that the person acting for the Administrator who decides the appeal should be different from any person or persons acting for the Administrator whose decision or action is contested by the Claimant and different from the person acting for the Administrator who made the determination the Claimant is appealing.

designee under Section 10.21 or 10.22, any employee of the Employer or an Institution of Higher Education.

- (b) Any judicial or administrative review of any such action or inaction is subject to Section 10.24 (relating to limitation of liability).

## **Section 9 Amendment and Plan Termination**

### **9.1 Amendment and Termination.**

The Employer reserves the authority to amend or terminate the Plan at any time or times as the Employer deems advisable, including amending the Plan retroactively, by adopting a writing making the amendment or termination. Any retroactive amendment applies to Participants, Beneficiaries, Alternate Payees, and all other persons retroactively according to the terms of the amendment. However, (a) an amendment or termination adopted other than by the Board may not restrict the Board's authority to amend or terminate the Plan and (b) an amendment or termination may not limit the Board's obligations under Section 10.23 (relating to indemnification) with respect to an act or failure to act that occurs before the amendment or termination.

### **9.2 Distribution upon Termination of the Plan.**

The Employer may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the Employer, an Institution of Higher Education, and any Related Employer of the Employer or an Institution of Higher Education on the date of termination do not make contributions to an alternative section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Income Tax Regulations.

## **Section 10 Miscellaneous**

### **10.1 Non-Assignability.**

Except as provided in Section 10.2 and Section 10.3, the interests of each Participant, Beneficiary, or Alternate Payee under the Plan are not subject to the claims of the Participant's, Beneficiary's, or Alternate Payee's creditors; and neither the Participant nor any Beneficiary or Alternate Payee shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

### **10.2 Domestic Relation Orders.**

- (a) Notwithstanding Section 10.1, if permitted by section 414(p) of the Code, the amount of the Participant's Account Balance shall be paid to an Alternate Payee in the manner and to the person or persons so directed in a domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan.
  
- (b) For purposes of the Plan, "domestic relations order" means a judgment, decree, or order (including approval of a property settlement agreement) ("Order") that:
  - (1) Relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant;
  - (2) Is made pursuant to the domestic relations law of any State;
  - (3) Creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under the Plan;
  - (4) Clearly specifies:
    - (i) The name and the last known mailing address (if any) of the Participant and the name and mailing address of each Alternate Payee covered by the order;
    - (ii) The amount or percentage of the Participant's benefits to be paid by the Plan to each such Alternate Payee, or the manner in which such amount or percentage is to be determined;
    - (iii) The number of payments or period to which such Order applies; and
    - (iv) That the Order applies to the Plan;
  - (5) Does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan (other than payment without regard to whether the Participant is eligible for a distribution of benefits under the Plan) and does not require the Plan to pay benefits to the Alternate Payee in the form of a joint and survivor annuity with respect to the Alternate Payee and his or her subsequent spouse;
  - (6) Does not require the Plan to provide increased benefits;

- (7) Does not require the payment of benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another Order previously determined to be a domestic relations order; and
  - (8) Does not require any action that would be inconsistent with the terms of the Plan, section 401(a)(9) or 403(b) of the Code, any other federal or Oregon law, or any Funding Vehicle.
- (c) The Administrator shall establish reasonable procedures for determining the status of any such Order and for effectuating distribution pursuant to the domestic relations order.
- (d) Pursuant to ORS 106.430(6), the Administrator concludes that the extension of the benefits of this Section 10.2 to an individual because the individual is or was in a domestic partnership (as defined in section 3 of that Act) would conflict with a condition for tax qualification of the Plan, or a condition for other favorable tax treatment of the Plan, under the Code or regulations adopted under the Code.

### **10.3 IRS Levy.**

Notwithstanding Section 10.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or that the Administrator finds is lawfully sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

### **10.4 Tax Withholding.**

Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Treasury Regulations thereunder). A payee shall provide such information as the Administrator may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

### **10.5 Payments to Minors and Incompetents.**

If a person entitled to receive any benefits hereunder is a minor or incompetent by reason of physical or mental disability, or is deemed so by the Administrator, benefits may, subject to any applicable provisions of ORS chapter 126, be paid to such third person as the Administrator may designate for the benefit of the person entitled to benefits. Such payments shall be considered a payment to the person entitled to benefits and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan. The Administrator has no duty to inquire about whether a person entitled to benefits is a minor or incompetent, and may (even after notice of minority or incompetency) pay benefits directly to a person entitled to benefits who is a minor or incompetent, and such direct

payments shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

**10.6 Procedure When Distributee Cannot Be Located.**

The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's, an Institution of Higher Education's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Funding Vehicle shall continue to hold the benefits due such person.

**10.7 Incorporation of Individual Agreements.**

The Plan, together with the Individual Agreements, is intended to satisfy the requirements of section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or section 403(b) of the Code.

**10.8 Governing Law.**

The Plan will be construed, administered and enforced according to the Code and the laws of the State of Oregon and consistent with the Employer's intent that the Plan satisfy section 403(b) of the Code. Any provision of the Plan that is based on a provision of the Code, including one not necessary for the Plan to satisfy section 403(b) of the Code, will be construed, administered, and enforced consistent with such provision and the interpretive authorities thereunder.

**10.9 Headings.**

Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

**10.10 Gender.**

Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

**10.11 Plan Year.**

The Plan's plan year is the calendar year.

**10.12 Severability.**

If a court of competent jurisdiction determines that any provision of the Plan is invalid or unenforceable, the remaining provisions will continue to be fully effective.

**10.13 No Contract Rights.**

Except for rights required for the Plan to satisfy ORS 243.910 to 243.945, section 403(b) of the Code, any other section of the Code, Treasury regulations, or Internal Revenue Service guidance, no Participant, Beneficiary, or other person will acquire a right, contractual or otherwise, to (a) contribute to the Plan, (b) the terms or the continuance of (1) the Plan, (2) any Annuity Contract or Grandfathered Custodial Account, (3) any annuity contract to which amounts have been transferred under the right granted in Section 10.18, or (4) any investment fund, or (c) have the Participant's Account Balance held or continue to be held in any particular Annuity Contract or Grandfathered Custodial Account or be invested or continue to be invested in any particular investment fund or funds.

**10.14 Powers of Attorney.**

The Administrator may allow any person to act under the Plan through an agent or attorney-in-fact designated in a written power of attorney. For this purpose ORS 127.005 to 127.045 and successor Oregon statutes apply, including without limitation the provisions in those statutes allowing the Administrator to rely on the authority of the attorney-in-fact or agent and protecting the Administrator from liability. This Section 10.14 does not prevent a Vendor from requiring compliance with the Vendor's rules for acts taken through an agent or attorney-in-fact.

**10.15 Effect of Plan Summary, Information, and Administration Forms.**

The terms of the Plan control in the event of any inconsistency between the Plan and any (a) written, electronic, or oral summary of, or information about, the Plan or any of its provisions or (b) administration form provided (as a written paper document or through electronic or other means) in connection with the Plan.

**10.16 Reliance on Evidence of a Person's Identity.**

Where the Administrator establishes reasonable means to identify a person, the Administrator may, unless the Administrator has actual knowledge to the contrary, rely on that evidence as establishing the person's identity. Such reasonable means include, without limitation, identification by password, personal identification number, identifying information (for example, social security number or mother's maiden name), a document (for example, a driver's license or other picture ID), or familiarity with the person (for example, with the person's voice or physical appearance).

**10.17 Correcting 403(b) Failures.**

The Administrator may require a Vendor, Participant, Beneficiary, Alternate Payee, and any other person to take any actions the Administrator deems advisable to correct one or more 403(b) Failures with respect to the Plan in a manner allowed by the Internal Revenue Service's Employee Plans Compliance Resolution System (which defines "403(b) Failure"), including without limitation

require that the amount of a Participant's Account Balance be changed or paid in part or whole.

**10.18 The Employer's Irrevocable Right to Take Actions to Change and Terminate the Plan, Including Actions on Behalf of and in the Name of Participants and Beneficiaries.**

The Employer has the irrevocable right to take all actions (except actions that would cause the Plan to fail to satisfy ORS 243.910 to 243.945 or section 403(b) of the Code, any other section of the Code, Treasury regulations, or Internal Revenue Service guidance) that the Employer deems appropriate, including without limitation actions on behalf of and in the name of the Participant and the Participant's beneficiaries, to facilitate all changes that the Employer determines to make to the Plan and to facilitate termination of the Plan, including without limitation actions:

- (a) To cause the Participant's Account Balance to be transferred, in a Contract Exchange satisfying the conditions in Sections 5.3(b) through (e), to one or more annuity contracts to which contributions may be made under section 403(b) of the Code and which will, as the Employer determines, (1) be under the control of the Participant or (after the Participant's death) one or more of the Participant's beneficiaries or (2) be under the control of the Employer; and
- (b) To designate the one or more investment funds in which the Participant's Account Balance is to be invested, and the one or more Annuity Contracts in which the Participant's Account Balance is to be held, and from time to time to change the designation.

This right allows the Employer to effect the Employer's interest in making changes to the Plan and in terminating the Plan. No person who relies in good faith on this right of the Employer is liable to any other person based on that reliance.

**10.19 Administrator's Discretionary Authority.**

The Administrator has discretionary authority in exercising, or deciding not to exercise, each of its functions under the Plan. Without limiting the foregoing, the Administrator has discretionary authority to construe and interpret the Plan and to determine all questions that arise under the Plan. The Administrator's decisions are final and binding on all parties and affected persons and their beneficiaries and successors to the maximum extent permitted by law.

**10.20 Employer's Sole Discretion.**

The Employer has sole discretion in exercising, or deciding not to exercise, each of its functions under the Plan. The Employer's decisions are final and binding on all parties and affected persons and their beneficiaries and successors to the maximum extent permitted by law.

### **10.21 Designees Through Which the Administrator May Act.**

The Administrator may act through any person designated from time to time. Any one of such designees may act for the Administrator without the consent of any of the others.

### **10.22 Designees Through Which the Employer May Act.**

In fulfilling its functions under the Plan, the Employer may act through any person designated from time to time by the Employer or any designee.

### **10.23 Indemnification.**

- (a) In order to facilitate the recruitment of competent persons, the Board agrees to provide the indemnification as described in this Section 10.23.
- (b) The Board agrees to indemnify Indemnified Persons for all acts taken in carrying out his, her, or their responsibilities under the terms of the Plan. This indemnification for all acts is intentionally broad but shall not provide indemnification for gross negligence, willful misconduct, embezzlement, or diversion of Plan funds for the benefit of the Indemnified Person. The Board agrees to indemnify Indemnified Persons for all expenses of defending an action, including all legal fees for counsel selected with the Board's consent and other costs of such defense. The Board shall also indemnify Indemnified Persons for any monetary recovery in any court or arbitration proceeding. In addition, if the claim is settled out of court with the concurrence of the Board, the Board shall indemnify Indemnified Persons for any monetary liability under said settlement. The Board shall have the right, but not the obligation, to conduct the defense of Indemnified Persons in any proceeding to which this Section 10.23 applies. The Board may satisfy its obligation under this Section 10.23 in whole or in part through the purchase of a policy or policies of insurance providing equivalent protection.
- (c) Notwithstanding the foregoing, the indemnification provided for in this Section 10.23 shall be subject to any applicable limitations under Article XI, Section 7, of the Oregon Constitution, or the Oregon Tort Claims Act, ORS 30.260 to 30.300.

### **10.24 Limitation of Liability.**

Subject to any requirements under section 403(b) of the Code:

- (a) Except as provided in section 10.24(b) below, none of the following persons is liable to any person for any act or failure to act under or with respect to the Plan where the act or failure to act is in good faith: the

Board (and any member of the Board); the Employer; any Institution of Higher Education; the Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 10.21 or 10.22, any employee of the Employer or an Institution of Higher Education. This Section 10.24(a) is not intended, and will not be construed, to expand the duties or liability of any of the foregoing persons beyond their duties and liabilities in the absence of this Section 10.24(a).

- (b) The exoneration from liability in Section 10.24(a) above does not apply to any Vendor and does not apply to any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board or as an employee of the Employer or an Institution of Higher Education.
- (c) Nothing in the Plan, including without limitation Section 8 (relating to claims procedure) and Section 10.24(a) above, constitutes a waiver of the sovereign immunity of the State of Oregon or a waiver of any other defense or right of any of the persons described in Section 10.24(a) above.

**10.25 Source of Benefits.**

All benefits payable with respect to amounts paid or transferred to an Annuity Contract or a Grandfathered Custodial Account will be paid solely from the Annuity Contract or the Custodial Account, and no person described in Section 10.24(a) and not in Section 10.24(b) is liable or responsible therefor.

**10.26 Oregon Family Fairness Act.**

The Administrator will administer the Plan to comply with the Oregon Family Fairness Act, which is ORS 106.300 to 106.340.

**10.27 Not a Contract of Employment.**

The Plan is not a contract of employment between the Employer or any Institution of Higher Education and any employee. Nothing in the Plan gives any employee the right to be retained in the employ of the Employer or any Institution of Higher Education or to interfere with any right of the Employer or any Institution of Higher Education to discharge any employee at any time. Nothing in the Plan gives the Employer or any Institution of Higher Education the right to require any employee to remain in its employ or to interfere with any right of any employee to terminate the employee's employment at any time.

The Plan, as amended and restated herein, is adopted by the Board through its delegate.

IN WITNESS WHEREOF, the Board, through its delegate, has caused this document to be duly executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

FOR THE UNIVERSITY OF OREGON

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Jamie H. Moffitt, Vice President for Finance & Administration / CFO



UNIVERSITY OF OREGON

## Seconded Motion from FFC

Regarding acceptance of a gift and approval of related capital project

**Introduction**

Board of Trustee approval is sought for expenditure of funds for construction of an addition to the School of Music and Dance (SOMD) building to house the Oregon Bach Festival (OBF). The addition will be located to the south of the building and will face 18<sup>th</sup> Avenue. The project is in early design stages and is currently being planned to cost not more than \$8,725,000. Adjustments to the scope of the project and/or the amount of funds raised may alter the final cost of the project. It is expected that the project will be completely donor funded.

Board of Trustee approval is also necessary for acceptance of a lead gift for this project (see below) because the gift is of a size and for a purpose requiring such approval by the Policy on the Retention and Delegation of Authority.

**Project Overview**

The new facility will be a two story building of approximately 14,000 gross square feet and will house the OBF offices, meeting space and a 2,300 square foot rehearsal space. The addition will be the 'public face' of the organization to the campus and the community.

The chosen site allows the OBF to retain an on-campus presence as well as be closer to the SOMD. Planning has included working closely with the leadership of the SOMD to maximize opportunities for shared facilities as well as fully accommodate the current activities of the SOMD.

The selection process for the architectural design team is underway and will be completed by August.

**Cost and funding**

A significant lead gift (over \$6 million) is pledged and fundraising for the project will continue over the next few years with the expectation that donor funds will cover all costs. In order to initiate the project to secure the lead gift, the President has committed central funds to make up any shortage in fundraising to meet the project's total cost of \$8,725,000.

**Timeline**

The project is anticipated to be completed by March of 2017, in time for the 2017 Festival.

**Broad Impacts**

Careful coordination with the SOMD will ensure their operations are disturbed as little as possible during construction and their current activities are accommodated throughout and after the project is completed. The project currently anticipates relocating 18 existing parking spaces from an existing lot to a location adjacent to the new addition.

**Neighborhood Considerations**

Leaders of the residential neighborhood to the south have been made aware of the project and have not raised any concerns.

*Following is a statement from OBF Interim Director Michael Anderson about the benefits of this gift and the project to the OBF.*

OBF began in 1970 as a conducting workshop sponsored by the School of Music. It was founded by Royce Saltzman and Helmuth Rilling. In the early years the office was in the School of Music Dance (SOMD) and it was known as the University of Oregon Summer Festival of Music. The Festival gradually expanded, and in 1979 it was re-named The Oregon Bach Festival. In 1982 the large scale performances were moved over to the new Hult Center for the Performing Arts. In the early 90s, the offices were moved over to Agate Hall.

In 2014, OBF received a large endowment gift from Andy and Phyz Berwick to initiate a new Academy for the study of historically Informed Performance. This new Academy will consist of an orchestra of 35 young professional musicians and 10 internationally respected tutors who will provide detailed instruction on all the orchestral instruments, all under the direction of Matthew Halls.

In planning the detailed curriculum and Academy schedule 2015, we realized that facilities at the SOMD could not handle the extra activity, as the school has to reserve space for summer courses and summer camps. For 2015 we will hold the training course at the First United Methodist Church, and after that part of the Academy, we will be able to move into the SOMD in the second week. In order for the Academy to be successful, we need to solve the facilities problem in the long run, and this new building will provide that solution with a large rehearsal room and an additional classroom.

The new building will also allow OBF to explore programming during times of the year that would be very natural for the music of Bach. For example, the St. Matthew Passion and St. John Passion of J.S. Bach are most appropriately performed during the week before Easter. Having this facility will allow the OBF to program rehearsal, lectures, and other events during that week.

I mentioned that OBF moved to Agate Hall in the 1980s. We were required to move again, on rather short notice, to our new location at 1600 Millrace, just a couple of weeks ago. Given university planning needs and the needs of the other units on campus, we are in a bit of a nomadic position at the moment. This new building will give us a stable home.

Finally, the new building will bring us closer to our roots at the UO School of Music and Dance. We already collaborate on several programs each year. We co-manage the Chamber Music @ Beall series of six concerts with the SOMD. We frequently present concerts during the academic year at Beall Hall—On April 28 we will present the Portland Baroque Orchestra in a performance of Vivaldi 4 Seasons. And each year, Artistic Director Matthew Halls is in residence at the SOMD conducting the orchestra and chorus. And we share the ownership of several very expensive keyboard instruments that are used during the academic year as well as the summer Festival.

These new facilities will be invaluable for rehearsals, lectures, receptions, and other events associated with these activities. It will also provide meeting space for our Board of Directors. Having our offices near the SOMD will help us in our planning and cooperation with the SOMD. The SOMD will be able to use the rehearsal room and other meeting space, which will be very useful to the School.

We are very excited by this project and we feel it will be of tremendous benefit both to the Oregon Bach Festival and to the University of Oregon School of Music and Dance.

## Board of Trustees of the University of Oregon

### Seconded Motion: Acceptance of Gift and Approval of Related Capital Project

Whereas, the Oregon Bach Festival is a landmark artistic institution of the University of Oregon;

Whereas, the OBF needs additional space for offices, meetings and rehearsal ability and such space is best situated in coordination with the University of Oregon School of Music and Dance (SOMD);

Whereas, a thorough campus planning review has been completed and a project as outlined in the summary attached hereto has been recommended for the use and benefit for the OBF, SOMD and University of Oregon;

Whereas, the University has received a lead gift of more than \$6 million dollars for this project;

Whereas, Section 1.9.2 of the University of Oregon's Policy on the Retention and Delegation of Authority (RDA) requires that the Board of Trustees (the Board) accept gifts exceeding \$5,000,000 which involve the construction of facilities not previously approved;

Whereas, Section 1.7.4 of the RDA requires the Board to approve a capital project that is anticipated to exceed \$5,000,000; and

Whereas, the Board Finance and Facilities Committee has referred this matter to the full Board as a seconded motion, recommending its adoption;

Now, therefore, the Board of Trustees of the University of Oregon hereby:

1. Authorizes the capital project described the summary provided herewith, and authorizes the President or his designee(s) to take all actions necessary and proper to execute said project;
2. Authorizes the President or his designee(s) to take all actions necessary and proper to accept the gift of \$6.05 million pledged in support of that capital project; and,
3. Ratifies all prior actions taken on behalf of the University related to the aforementioned gift and capital project.

*--Vote recorded on following page--*

Trustee	Yes	No
Ballmer		
Bragdon		
Chapa		
Colas		
Curry		
Ford		
Gary		
Gonyea		
Kari		
Lillis		
Ralph		
Schlegel		
Wilcox		
Willcox		

Dated: \_\_\_\_\_ of \_\_\_\_\_, 2015.

Initials: \_\_\_\_\_



## Agenda Item #5

### AAA Design Review

The School of Architecture and Allied Arts holds design reviews for students to display their work and engage with faculty. Trustees will observe reviews for Architecture, Landscape Architecture, Interior Architecture (furniture), Product Design and Fine Arts.



UNIVERSITY OF OREGON

## Agenda Item #6

Update on Collective Bargaining

*There are no materials for this section*