

**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--*

<b>Trustee</b>	<b>Yes</b>	<b>No</b>
Ballmer	<b>X</b>	
Bragdon	<b>X</b>	
Chapa	<b>X</b>	
Colas	<b>X</b>	
Curry	<b>NP</b>	<b>NP</b>
Ford	<b>X</b>	
Gary	<b>X</b>	
Gonyea	<b>X</b>	
Kari	<b>X</b>	
Lillis	<b>X</b>	
Ralph	<b>X</b>	
Schlegel		<b>X</b>
Wilcox	<b>X</b>	
Willcox	<b>X</b>	

Dated:   4   of   June  , 2015.

Initials:           *AW*

**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 [AffairsLife](#).

(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.~~