

University of Oregon Student Conduct Code

Proposed revisions for Senate meeting of October 8, 2014

Version 2.4, Oct. 8, 12:36 pm

John E. Bonine, B.B. Kliks Professor of Law

With Caroline Forell, Clayton R. Hess Professor of Law

Curly brackets: Language denoted only with curly brackets ({ }) are editorial comments by the Office of Student Life, and are presented by them to enhance comprehension of the code. They are not enacted as University legislation in the Code.

The Bonine/Forell proposed additions are shown with brackets, in red font, and underlined [like this]. Our proposed deletions are shown in orange font with strike-out like this. Our commentary on the reasons for suggested changes are in double angle brackets, blue font, italicized and bold-faced <<like this>>. Comments from Mr. Sandy Weintraub, Director of Student Conduct and Community Standards, made in May 2014, are in green highlighting, like this.

*Temporary changes: Without participation of the University Senate, the Board of Trustees of the University of Oregon, upon recommendation from the University President, on advice of his staff, changed a number of parts of the Student Conduct Code on September 11, 2014. The Board decided that these changes would be temporary and in place for a year, subject to further consideration by the Board during this year. I have put those additions in **black boldface** and deletions in black ~~strikeout~~. These are not the subject of discussion at this October 8, 2014, meeting, however. They are marked in this way simply to indicate that they are temporary changes, which may or may not become permanent. In the case of the wholesale deletion a few sections and subparagraphs, I have simply deleted it, without using strikeout, as they were so big.*

Changes made by the University Senate on May 28, 2014, are not shown at all. They were adopted by the UO Board of Trustees as permanent, not temporary changes, after recommendation by the Senate and President.

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ORAR 571-021-0100 - 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.

ORAR 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, ORAR571-021-0100 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 ORAR 571-021-0105(3);
- (d) Plagiarism, as defined in ORAR 571-021-0105(26);

- (e) Knowing furnishing false information to a University Official; and
 - (f) Fabrication, as defined in OAR 571-021-0105(14).
- (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 has mastered information on an academic exercise that he or she 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 Committee" means the Committee established pursuant to OAR 571-021-0110, comprised of persons appointed by the President with the responsibility for formulating, approving or recommending changes related to the Student Conduct Program.
- (6) "Community Standards Hearing Board" means the board established pursuant to OAR 571-021-0160, comprised of persons authorized by the Community Standards Committee to determine if a student has violated the Student Conduct Code and to recommend sanctions when a violation has occurred.
- (7) "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.
- (8) "Contacting" has its common meaning. It includes, but is not limited to, communicating with or remaining in the physical presence of the other person.
- (9) "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.
- (10) "Contempt" means disregard of, or disobedience to, the rules or orders of any tribunal 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.
- (11) "Director of Student Conduct and Community Standards" is the person designated by the University Senate and University President or designee to be responsible for the administration of the Student Code.
- (12) "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.
- (13) "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.
- (14) "Fabrication" means the intentional use of information that the author has invented when he or she states or implies otherwise, or the falsification of research or other findings with the intent to deceive.
- (15) "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.
- (16) "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.

(17) "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 and telephone) except to the extent such insults, gestures or abusive words are protected expression; or
- (c) Other types of prohibited discrimination, discriminatory harassment, and sexual harassment as defined by law.

(18) "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.

(19) "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."

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

(21) "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.

(22) "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.

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

(24) "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.

(25) "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.

(26) "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 acknowledgment; and
- (b) The unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(27) "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.
- (28) "President" means the University President.
- (29) "Shall" and "will" are used in the imperative sense.
- (30) "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.]

<< This is a clarification. Furthermore, for Title IX purposes "a single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment." U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, REVISED SEXUAL HARASSMENT GUIDANCE: HARASSMENT OF STUDENT BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES n. 72 at p. 6 (2001, available at <http://www.ed.gov/offices/OCR/archives/pdf/shguide.pdf>. If a single incident of sexual harassment may create a hostile environment for purposes of Title IX, it seems obvious that a single incident of nonconsensual personal sexual contact, assault, etc., could also constitute sexual "misconduct.">>

<< Sandy Weintraub, UO Director of Student Conduct and Community Standards (in consultation with the Assistant Dean of Students, Chicora Martin, on this and most other matters) agrees with this addition. He points out that this is already the practice, although it is not explicit in the Code.>>

- (31) "Student" means any person who has student status pursuant to OAR 571-021-0115.
- (32) "Student Organization" means any group of University of Oregon students meeting criteria for group recognition established by the University.
- (33) "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."
- (34) "University Appeals Board" means the person or persons authorized by this Code pursuant to OAR 571-021-0165 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.~~

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

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

(37) "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.

(38) "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.

OAR 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 OAR 571-021-0205(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 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.

OAR 571-021-0115 - 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 nonconsensual personal contact as defined in OAR 571-021-0105(30). 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 Conduct Code if the conduct had occurred on campus; and:

- (A) Adversely and significantly affects the learning and 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.

[Bonine note: The Office of the Dean of Students has "learning or living environment" on its website, which is not correct. The Minutes of the May 28, 2014, Senate meeting reported that Senator Martinez offered a "friendly amendment" to change "learning and living environment" to "learning

and or living environment” and the Senate voted for this. See at the end of the Minutes, at <http://senate.uoregon.edu/content/minutes-uo-senate-meeting-may-28-2014.>]

- (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. Complaints of 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 [sexual misconduct,] 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
 - (b) The student's last date of enrollment or registration, or an organization's recognition.
- (6) Allegations of [sexual misconduct,] academic dishonesty or fraudulently obtaining a degree may be considered at any time regardless when the alleged misconduct occurred.

<<This and an associated change (removing the six-month statute of limitations on filing a sexual misconduct complaint) are proposed because of the potential of long-lasting traumatic effects on victims of sexual misconduct. Removal of the six-month statute of limitations will leave open the possibility of degree revocation or negative notation in the transcript, as provided in OAR 571-021-0130.

<<The Groves Report itself gave one example of problems with a six-month statute of limitations in its footnote 7 on page 4.>>

<< Sandy Weintraub, UO Director of Student Conduct and Community Standards agrees and would also add: "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." We have omitted this for the present in order to keep our focus on sexual misconduct, but have no problem with his suggestion.>>

- (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.

OAR 571-021-0120 - Violations of Community Standards by Individual 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:

(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 OAR 571-021-0105(3);
- (b) Fabrication as defined in OAR 571-021-0105(14);
- (c) Plagiarism as defined in OAR 571-021-0105(26);
- (d) Academic misconduct as defined in OAR 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 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 created under this Code. Adjudication of contempt and imposition of sanctions may be imposed summarily consistent with OAR 571-021-0240.

(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 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 OAR 571-021-0105(), conduct made or transmitted via electronic forums or electronic mail.

(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 OAR 571-021-0105(18);

(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 OAR 571-021-0105(17), 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 OAR 571-021-0105(38);

(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 [, as defined] in OAR 571-021-0105(30).~~

~~—— (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.—~~

<< There is no need for any of the requirements of subparagraph (A) or its subparagraphs (i), (ii), or (iii). We propose to delete them.>>

<< Sandy Weintraub, suggested that this will be greatly simplified if (1) the prohibition of "sexual misconduct" simply refers to the definition of it and (2) all of the criteria in subsection (A) are removed. We agree.>>

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

(~~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.

(~~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.

<< The term "explicit" is added both to be consistent with other provisions of the Code and to reinforce, as an educational tool, the importance that consent must be explicit.>>

<< Sandy Weintraub agrees with this change.>>

(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 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.

OAR 571-021-0125 - Violations of Community Standards by 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 Affairs, 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.

OAR 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 [anyone, including sexual assault] are deemed the most severe and may result, upon the first violation, in a negative notation being placed on a transcript, suspension, or expulsion.

<<Adding the words “including sexual assault” simply provides clarity that this is severe and may result in the most serious sanctions. Furthermore, such violations affecting the health, safety and well-being of “anyone,” not only that of persons in the UO community, should cause consideration of serious sanctions.>>

<< Sandy Weintraub agrees with this change and says that it reflects current practice.>>

(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 Affairs.

(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. [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, suspensions, and expulsions.]

<<Such sanctions as being required to keep a journal are unlikely to do anything by themselves to deter the most serious sexual assaults. This modification would make it clear that some additional form of punishment is the norm, whether it be reprimand or a stronger sanction. To require workshops and papers can be a valuable step, but to require them alone when a sexual assault has occurred trivializes the seriousness and trauma that the student has caused to another person.>>

<< Sandy Weintraub agrees. He says that this is already the practice, although it is not so stated in the Code.>>

(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 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 OAR 571-021-0240(3).

OAR 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. [Complaining students, particularly in cases involving sexual misconduct, should often be accorded certain accommodations, as provided below.]

<< Sandy Weintraub agrees. He says that this is already often the practice, although it is not codified in the Code.>>

(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 in 571-021-0205** ~~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.

[(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 adviser 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 in the same room as the accused student.]

<<This is an attempt to give the complainant the same level of rights as the accused person and also to protect victims against re-traumatization in the case of sexual misconduct. The Groves Report observed on its page 17 that the "legal and policy" rights of the complainant must be "balanced" with those of the accused – but in fact, the UO Student Conduct Code does not state any rights of the complainant.>>

<< Sandy Weintraub agreed with these proposed additions when applied to hearings. He said that these are already the practice, although not codified in the Code. I have updated them to apply only to administrative conferences.>>

OAR 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 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 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.

~~OAR 571-021-0160 - University Hearings Board; Student Conduct Hearings Panel~~

[Note: Repealed in its entirety by UO Board of Trustees upon recommendation of the UO President, Sept. 11, 2014.]

OAR 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 OAR 571-021-0250, the Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions of ~~a Hearings Panel~~ **all administrative conferences in cases except those involving Sexual 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.

OAR 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 [or non-enrolled Student (as defined in 571-021-0115)] 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 OAR 571-021-0115. 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 [60 calendar days] ~~six months~~ to send written notice to the accused Student of the complaint, [unless for good cause an extension to six months is provided in writing by the Vice President for Student AffairsLife.]

<<The proposal at the beginning of paragraph (1) to include a “non-enrolled Student” will allow sanctions against students who are not enrolled but continue as students.

<<The proposal near the end is to require the Office of Community Standards to act expeditiously and not to allow a complaint to languish. The Groves Report noted two important things that lead us to believe that a time limit much tighter than six months should be codified. First, the University told Mr. Groves that it has an objective to complete an investigation within 30 days, according to page 16 of the Report. Second, the Office of Civil Rights’ “Dear Colleague” letter of April 2011 contains an expectation that the school will complete its investigation within 60 days, according to page 16 of the Report.>>

<< Sandy Weintraub agrees with this proposed change and suggested that only the Vice President be allowed to grant an extension. We agree.>>

- (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 copy of the notice shall also be sent to the Member of the University Community who filed the complaint.] Such notice shall inform the student of:

<<It is important to provide a complainant with the same notice as an accused Student.>>

<< Sandy Weintraub agrees.>>

- (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 ~~14~~ **7** 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.

[(e) Where sexual misconduct is alleged, the complainant is entitled to the same opportunity as the accused student to have an advisor.]

<< Sandy Weintraub agrees.>>

<<May 2014 additional proposal:>>

[If the accused student is entitled to a legal advisor at no cost to the accused, a complainant student must also be provided the option of a legal advisor at no cost to the complainant. An advisor for a complainant of sexual misconduct may also be a person working for a nonprofit organization dealing with sexual misconduct, with reasonable reimbursement provided by the University or a contract with such an organization.]

<<It is important to provide a complainant with the same notice and at least the same resources as an accused Student. At present, the ASUO funds an Office of Student Advocacy, which will provide legal assistant to a student accused of violating the Student Conduct Code but that office will not provide assistance to a student who alleges she has been victimized and is accusing another student (including for sexual misconduct). The ASUO also does not provide any other funding for legal representation for alleged victims. The University Senate does not have authority regarding the ASUO, which acts as an independent entity, but can pass legislation that, if accepted by the University President and Board, would provide for University funding. >>

<< Sandy Weintraub supports the principle of equity in representation. However, he explains that, as a funding mechanism is not currently in place, he is not able to endorse this particular language at this time. He recommends a collaborative process to examine this or other options. .>>

<<October 2014 revised alternative proposal:>>

[If either or both request an advisor, both the accused student and the complaining student are entitled to legal advisors, or other advisors working for a nonprofit organization, funded by the University at no cost to the student. The University will provide this assistance through reasonable reimbursement or a contract with an organization.]

<<It is important to provide a complainant with the same notice and at least the same resources as an accused Student. As stated above, the ASUO funds an Office of Student Advocacy, which will provide legal assistant to a student accused of violating the Student Conduct Code but that office will not provide assistance to a student who alleges she or he has been victimized and is accusing another student (including for sexual misconduct). The ASUO also does not provide any other funding for legal representation for alleged victims. The University Senate does not have authority regarding the ASUO, which acts as an independent entity, but can pass legislation that, if accepted by the University President and Board, would provide for University funding>>

(3) Response.

~~(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 14 7 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 OAR 571-021-0205 ~~or OAR 571-021-0210~~ for disposition of the case without consultation with or agreement by the Student.

[Note: Subparagraphs (3)(a), (3)(c), and (4) repealed by UO Board of Trustees upon recommendation of the UO President, Sept. 11, 2014.]

<< The University President's staff did not propose repeal of the cross-reference to 571-021-0210. However, that section was deleted, so the reference to it must be repealed here.>>

(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.

OAR 571-021-0205 - 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 at 571-021-0200(2)(c), present during any interviews with the Director of Student Conduct and Community

~~(4) (2)~~ 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 advisor~~

<<Sandy Weintraub of the Student Conduct Office has informed me that subparagraph (c) was deleted because 571-021-0200(2)(c) already explicitly preserves this right.>>

~~(d)~~ (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.

~~(2)~~ (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.

~~(3)~~ (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.

~~OAR 571-021-0210 - University Hearings Panel Hearings~~

[Note: Repealed in its entirety by UO Board of Trustees upon recommendation of the UO President, Sept. 11, 2014.]

OAR 571-021-0215 - 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 the office of Student Conduct and Community Standards.}

(1) Notice. Upon the discovery of suspected Academic Misconduct, as defined in OAR 571-021-0100(1), 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, OAR 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 in 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.

OAR 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** [except for sexual misconduct involving unwanted penetration or nonconsensual personal contact as set out in OAR 571-02-0105 (30) (a) and (b), 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 **or Sexual** Misconduct, decline to process a complaint until the parties make a reasonable attempt to achieve a mediated resolution.

<<The Groves Report recommended in footnote 34 on page 18 that the Code be amended to exclude sexual misconduct from mediation, noting that the Office of Civil Rights stated in an April 2011 "Dear Colleague" letter three years ago that mediation is not appropriate for resolving sexual misconduct complaints. Our changes eliminates mediation for sexual assault, but leaves the possibility of mediation for sexual harassment.>>

<< Sandy Weintraub agrees with this proposed change. It reflects current practice>>

(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 OAR 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 OAR 571-021- 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.

OAR 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** ~~a full hearing regarding the Student's conduct pursuant to OAR 571-021-0210 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 ~~Affairs~~ **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.

[Note: Subparagraphs (7) repealed by UO Board of Trustees upon recommendation of the UO President, Sept. 11, 2014.]

~~(8)~~ (7) If emergency restrictions on ~~an~~ a Student's housing or enrollment are removed, the Student will not be assessed any fees for reinstatement.

OAR 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 OAR 571-021-0250.

(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 OAR 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 OAR 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 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.

OAR 571-021-0250 - Appeals

The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. As set forth in OAR 571-021-0165 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 **administrative conference** ~~the 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 **administrative conference** ~~Hearings Panel~~ and supporting documents:

(a) To determine if the **administrative conference** ~~Hearings Panel hearing~~ 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~~

