

From: John E. Bonine, B.B. Kliks Professor of Law
To: University Senate
Date: October 8, 2014
Re: Motion 6 for amending the Student Conduct Code

I move to change UO Policy 571-021-0140 by adding a new sentence to the opening unnumbered paragraph and to add a new paragraph (6). These changes are all shown in strike-out text, square bracket insertion, and red underlining in the following:

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. [Complainants shall 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.>>

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

- (a) To be allowed reasonable time to prepare for any participation in the conference;
- (b) To be accorded the opportunity to offer a relevant response to any assertions made;
- (c) To propose relevant witnesses and submit suggested questions to the Director;
- (d) To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act and Oregon law;
- (e) To request that any person conducting a disciplinary conference be disqualified on the ground of personal bias;
- (f) To be protected against retaliation for filing a complaint;
- (g) To have an advisor of their choice present at the conference provided that the advisor's schedule does not unreasonably delay the proceeding. The Director shall determine what constitutes an "unreasonable" delay;
- (h) Upon request in the case of sexual misconduct, to be present in a separate room instead of 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.>>