

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

I move to change UO Policy 571-021-0220 by making changes regarding mediation -- as shown in strike-out text, square bracket insertion, and red underlining in the following:

## **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>>*