

## **OAR: Oregon Administrative Rules**

Citations in the Code of Student Responsibility are taken from the Oregon Administrative Rules, Chapter 574, Divisions 031 and 032.

### **DIVISION 31**

#### **OVERVIEW, STANDARDS, AND SANCTIONS**

##### **574-031-0000 Introduction**

- (1) Western Oregon University has a fundamental interest in the education and conduct of its students. The academic, social and personal development of a student through his or her University experience involves a fusion of the learning process with the development of a coherent and consistent system of ethics, as well as adherence to standards of behavior created and accepted by the University community.
- (2) All members of the University community have a responsibility to maintain a level of behavior that reflects favorably upon the person and the University. The University requires that all students be responsible for their own conduct. The University expects students who live on and off campus to abide by local, state, and federal laws as well as University policies, procedures, and regulations, including this Code of Student Responsibility.
- (3) The Code of Student Responsibility will be applied impartially and without regard to age, disability, ethnic background, gender, race, religious or political affiliation, sexual or gender orientation.
- (4) The application of the standards within this Code of Student Responsibility applies to individuals, clubs, educational activity groups, other student groups, and any individual student who is registered for one or more credit hours, including on-line courses, is enrolled in a special non-credit program approved by the University, or who has been accepted for admission, housing, financial aid, or any other service or benefit provided by the University which requires student status.
- (5) This Code of Student Responsibility was adopted on September 1, 2009, became effective September 1, 2009 and supersedes all other previous conduct codes.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

##### **574-031-0010 Definitions**

- (1) The term "University" means Western Oregon University, or any part or division within Western Oregon University.

- (2) The term "Adjudication" means a method of resolving allegations of student misconduct which employs a fact-finding, impartial adjudicator, or judge, to render a binding decision in the matter.
- (3) The terms "Administration or Staff Person" mean any person who holds a current non-academic appointment or classified position at the University.
- (4) The term "Advisor" means any person who has elected to advise a charged student, witness, or a complainant within a student conduct hearing.
- (5) The term "Appeals Body" means any person or group charged with hearing appeals through this Code of Student Responsibility (e.g., the Vice President for Student Affairs).
- (6) The term "Business Visitor" means any person on the University's property who has a legitimate interest or focus of business with the University, and who is not a member of the University community.
- (7) The term "Campus" means any property owned or controlled by the University.
- (8) The term "Charged Student" means any student charged with a violation of this Code of Student Responsibility.
- (9) The term "Code" means this Code of Student Responsibility.
- (10) The term "Committee" means the University Student Conduct Committee.
- (11) The term "Complainant" means any person whether a member of the University community or not, who has filed a complaint of alleged misconduct with Public Safety or with the Campus Judicial Program concerning a student.
- (12) The term "Coordinator" means the Coordinator of Campus Judicial Affairs.
- (13) The term "Coordinator of Campus Judicial Affairs" means that person designated by the Vice President for Student Affairs as the administrator of the University's Campus Judicial Program.
- (14) The term "Disputant" means any person who uses mediation within the Campus Judicial Program to resolve a conflict with another party or parties.
- (15) The term "Faculty" means any person who holds a current academic appointment at the University.
- (16) The term "Mediation" means a method of dispute resolution in which disputants utilize an impartial third party to assist the disputants to mutually resolve their conflict.
- (17) The term "Member of the University Community" means any student, faculty, administration, or staff member at the University.
- (18) The term "Preponderance of the Evidence" means that based on the information that is presented, the charged student has more likely than not, engaged in the charged misconduct.
- (19) The term "Student" means a person who is enrolled at Western Oregon University or any person meeting the description in 574-031-0000(4).

- (20) The term "Student in Violation" means any student found to be in violation of the Code of Student Responsibility through the Campus Judicial Program.
- (21) The term "University Sponsored On- or Off-Campus Event" means any event in which at least one of the following applies:
  - (a) The University plans the event;
  - (b) The University pays all, or a part of, the cost of the event;
  - (c) The University sponsors the event;
  - (d) The University contributes any type of University owned or leased resources or equipment to the event;
  - (e) A University student, faculty, or staff person represents the University at the event;
  - (f) The event occurs within a University owned or leased property, or upon or within University owned or leased property, including any type of state vehicle; or
  - (g) The event occurs during the time frame specified on an approved sponsorship form.
- (22) The term "Victim" means any person not charged with a violation of the Code who has been harmed by the behavior of a student found in violation of the Code. When referring to situations in which a charged student has not been found in violation of the Code of Student Responsibility, this person is referred to as an alleged victim.
- (23) The term "Visitor/Guest" means a non-student or person not affiliated in any official way with Western Oregon University.
- (24) The term "Witness" means any person who has information which pertains to a case of alleged student misconduct.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

### **Standards of Conduct**

#### **574-031-0020 Jurisdiction**

The regulations contained in the Code of Student Responsibility will apply to all matters affecting the University, including, but not limited to, events occurring during the time the University is in session, events occurring between academic terms, at University sponsored off-campus events, and any illegal behavior on or off the campus by Western students. Misconduct by non-students (business visitors, visitors/guests) whether on-campus or at an off-campus University sponsored event may result in a trespass from campus and/or any future WOU event.

Allegations of student misconduct may be adjudicated within the University's administrative Campus Judicial Program as well as within any off-campus criminal justice system regardless of whether the alleged behavior occurred on- or off-campus. Adjudication of allegations of student misconduct will occur expediently and sometimes before or concurrently with adjudication within an off-campus system of justice.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

### **574-031-0030 Specific Standards and Policies**

The following list of prohibited forms of conduct is not all inclusive since it is not possible to list all potential violations. The University requires that all students behave in a manner congruent with established community standards and in a manner conducive to the development of the individual. Actions detrimental to the mission of the University and the legitimate activities of the academic community which constitute the University are in violation of this Code and may be subject to judicial procedures.

Judicial action may be initiated by the University and educational and/or punitive sanctions may be assigned to any student or recognized student organization found participating in, attempting to participate in, or assisting others in participating in any of the following prohibited forms of conduct:

- (1) Academic Dishonesty, which includes but is not limited to:
  - (a) Cheating -- intentional use, or attempted use of artifice, deception, fraud, and/or misrepresentation of one's academic work;
  - (b) Fabrication -- unauthorized falsification and/or invention of any information or citation in any academic exercise;
  - (c) Facilitating dishonesty -- helping or attempting to help another person commit an act of academic dishonesty. This includes students who substitute for other persons in examinations or represent as their own papers, reports, or any other academic work of others;
  - (d) Plagiarism -- representing without giving credit the words, data, or ideas of another person as one's own work in any academic exercise. This includes submitting, in whole or in part, prewritten term papers of another or the research of another, including but not limited to the product of commercial vendors who sell or distribute such materials, and the appropriation and/or use of electronic data of another person or persons as one's own, or using such data without giving proper credit for it; or

- (e) Any use or attempted use of electronic devices in gaining an illegal advantage in academic work in which the use of these devices is prohibited, and such devices include but are not limited to cell phones, PDAs, laptops, programmable calculators, removable disk drives, etc.
- (2) Disorderly, lewd, indecent, or any other form of conduct which interferes with but is not limited to:
  - (a) The academic program of the University;
  - (b) The health and safety of members or visitors of the University community;
  - (c) The security of University owned or controlled property;
  - (d) The conduct of non-classroom activities (e.g., lectures, concerts, athletic events, and social functions); or
  - (e) The functions of the University.
  - (f) Any other University activity or University sponsored activity or event.
- (3) Harassment, which includes but is not limited to:
  - (a) Physical contact with or physical interference with a person which:
    - (A) Is objectively offensive;
    - (B) Causes pain;
    - (C) Prevents or disrupts the person from any lawful chosen activity;
    - (D) Puts the person in fear for safety;
    - (E) Causes damage to person or property.
  - (b) Conduct without physical contact or physical interference with a person, including but not limited to hazing, harassing or threatening behavior, including verbal communication, which is intended to and has the effect of:
    - (A) Substantially disrupting another person's lawful activity;
    - (B) Causes another person to be subject to unwelcome or offensive physical contact;
    - (C) Causes risk of personal injury or injury, risk of property damage or property damage;
    - (D) Causes another person to be subject to unwelcome and objectively unreasonable interference with mental and emotional health; or
    - (E) Puts the person in fear for safety.
  - (c) Repeatedly contacting another person when:
    - (A) The contacting person knows or should know that the contact is unwanted by the contacted person; and
    - (B) The contact causes the contacted person reasonable apprehension of imminent physical harm or the contacting person knows or should know that the contact causes the contacted person mental anguish or distress and/or substantial impairment of the contacted person's ability to perform the activities of daily life. As used in this context, "contacting" includes but is not limited to communicating with or remaining in the physical presence of the contacted person; or

- (d) Sexual Harassment, whether or not it be by direct physical attack, as defined below. Sexual harassment includes, but is not limited to, sexual advances, requests or suggestions to engage in sexual conduct, and other physical and expressive behavior of a sexual nature when:
  - (A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; or
  - (B) Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or
  - (C) Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creates an intimidating or hostile employment, educational, or living environment.
- (e) It is a defense to any charge of harassment if the alleged harassing conduct is not objectively unreasonable.
- (4) Detention or physical abuse, or conduct which threatens imminent bodily harm, or endangers the physical or emotional health of any person or oneself.
- (5) Sexual Misconduct: Sexual Misconduct is unwanted sexual contact of any kind or the attempt to have unwanted sexual contact or the threat of such contact. Sexual contact shall be considered unwanted if no clear consent is freely given. Sexual contact is considered unwanted if the person is substantially impaired by alcohol or drugs or the person is otherwise without the physical or mental capacity to give clear consent. Sexual contact for the purpose of this rule means the touching of any private body part, including, but not limited to: genitalia, anus, buttocks, or breasts of another or causing such person to touch the genitalia, anus, buttocks, or breasts of another.
- (6) Specifically insulting another person in his or her immediate presence with abusive words or gestures in a manner intended and likely to provoke a disorderly or violent response, whether or not it actually does.
- (7) Possession, consumption, or sale of alcoholic beverages on University owned or controlled property with the exception of approved events that follow the President's policy on use of alcohol at WOU functions.
- (8) Possession, consumption, manufacturing, or sale of illegal drugs or any other controlled substance on or off University owned or controlled property.
- (9) Possession, consumption, sale, or distribution of alcoholic beverages or illegal drugs during the official portion of a University sponsored off-campus event as defined by the faculty or staff advisor.
- (10) Acts which violate federal, state, or local laws.
- (11) Violation of residence hall rules and procedures as listed in official residence hall publications.

- (12) Tampering with fire safety equipment, generating a false alarm, or engaging in behavior that constitutes a fire or safety hazard.
- (13) Failure to evacuate a University building after a fire alarm has sounded or other notice to evacuate has been given by a person authorized to give such notice.
- (14) Possession or use of firearms, fireworks, explosives, dangerous chemicals, or other weapons or dangerous instruments on institutionally owned or controlled property.
- (15) Obstruction or disruption of teaching, research, administration, judicial procedures, or other institutional activities, including the institution's public service functions, other authorized activities, or University sponsored off-campus events.
- (16) Malicious damage, misuse, or theft of institutionally owned property, or the property of any person where such property is located on institutionally owned or controlled property, or, regardless of location, is in the care, custody or control of the University.
- (17) Failure by a person causing accidental damage to or removal of property to report to appropriate University staff or individual owner within a reasonable period of time following the accidental damage to or removal of University or personal property.
- (18) Theft of property or services, or knowingly possessing or using stolen property or services including, but not limited to, furniture, equipment, university publications or any other form of media, and any other university owned property or services.
- (19) Unauthorized entry to or use of institutional facilities, including buildings and grounds. This includes non-residential students who are in the residence hall area without an expressed invitation and/or remain overnight in a residence hall without permission from the Office of University Residences.
- (20) Disruption of campus activities or function of the University.
- (21) Use of campus computers and/or network resources that includes, but is not limited to:
  - (a) Unauthorized access to programs;
  - (b) Alteration of computer records or data;
  - (c) Theft or other abuse of computer time and/or overloading computing resources;
  - (d) Violation of copyright laws;
  - (e) Using a computer account not issued directly to the student; or
  - (f) Sending or posting threatening or harassing statements as described in 574-031-0030(3).
  - (g) Any violation of the Acceptable Use of Computing Resources Policy.
- (22) Refusal while on institutionally owned or controlled property, or at University sponsored on- or off-campus events, to comply with reasonable

requests or directions from authorized University officials, including Public Safety officers, Resident Assistants, faculty and administrators.

- (23) Misrepresentation of Matters of Fact, including:
  - (a) Knowingly furnishing false information to an authorized University official who is making an inquiry to carry out official University business;
  - (b) Representing one's self as another person, including a University official, with or without that person's permission to gain a benefit improperly;
  - (c) Altering, forging, improperly possessing, creating, distributing, or lending to another person a University identification card or instrument of identification unless authorized by the University or an authorized University official; or
  - (d) Intentionally furnishing false academic information or concealing previous academic information in University application materials, assisting someone else in furnishing false information to the University, or using University documents for fraudulent purposes.
  - (e) Providing forged, false or improper documents to the University.
- (24) Student groups representing themselves or an individual in the group representing him or herself as acting for or in behalf of the University in any commercial enterprise or in the solicitation or collection of funds for any purpose whatsoever without approval in advance by the appropriate University official or agency. This applies to all means of communication (e.g., verbal, written, electronic).
- (25) Violation of motor vehicle rules and regulations, or other policies adopted by the University or the State Board of Higher Education pertaining to the use of motor vehicles.
- (26) Obstruction or disruption which interferes with the freedom of movement, either pedestrian or vehicular, on institutionally owned or controlled property.
- (27) Publication, posting, or distribution on University property, or at authorized University activities, of material that violates copyright laws, postal regulations, University policies or rules, or any other law or statute.
- (28) Hazing, defined as any initiation rite for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or organization. The act of hazing, whether on or off campus, involves any intentional action or situation that a reasonable person would foresee as causing mental or physical discomfort, embarrassment, or ridicule; or which destroys or removes public or private property.

Activities and situations that may occur as part of hazing include, but are not limited to:

- (a) Physical abuse, pain, harm, or risk;
- (b) Mental anguish, fear or anxiety;

- (c) Required performance of activities (e.g., pranks, servitude, physical contests);
  - (d) Compelled ingestion of any substance;
  - (e) Any form of confinement or restraint; or
  - (f) Other activities which violate federal, state or local laws.
- (29) Contempt of adjudicative proceedings, which includes but is not limited to:
- (a) Conduct that interrupts the due course of proceedings in the presence of any hearing body created under this Code;
  - (b) Violating the confidentiality of judicial proceedings administered under this Code;
  - (c) Knowingly giving false information at a judicial hearing or knowingly giving false information in a statement to be used as evidence at a judicial hearing, or knowingly giving false information to a campus judicial hearing officer;
  - (d) Failure by a witness to appear at a conduct hearing when requested to do so by a representative of the Campus Judicial Program;
  - (e) Knowingly and falsely initiating the judicial process, for instance, by filing a false complaint or report;
  - (f) Influencing or attempting to influence the impartiality of a hearing officer or a member of a campus judicial body or a witness;
  - (g) Harassment of a member of a campus judicial body or hearing officer prior to, during, and/or after a judicial proceeding; or
  - (h) Failure to comply with the terms of any judicial sanction imposed in accordance with the Code of Student Responsibility or mandated by the Residence Halls Judicial Board.
- (30) Violation of published University policies, rules, or regulations.
- (31) Inciting others to engage in any of the above prohibited forms of conduct or to perform any of the acts prohibited herein. Inciting means the advocacy of proscribed conduct which calls upon the person or persons addressed for imminent actions, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the institution, including the safety of its students, faculty, and officials, and the protection of its property.
- (32) Violation of OUS Higher Education policies.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

### **574-031-0040 Sanctions**

The following order of sanctions implies neither degree of severity nor appropriateness of the sanction to the number of violations. Multiple sanctions may be assigned. Students will be responsible for any applicable costs for

carrying out sanctions. The sanctions that may be assigned include, but are not limited to:

- (1) Mediation: When charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the adjudicative process, the student may be assigned to participate in a mediated meeting with the victim.
- (2) Counseling: A student may be assigned to participate in a counseling intake session and to follow the recommendations of the intake counselor for further counseling sessions.
- (3) Alcohol/Drug Assessments: A student may be assigned to complete an alcohol and/or drug evaluation and to follow the recommendations of the alcohol/drug counselor for treatment and/or education.
- (4) Warning: The student or group is given written or verbal warning that his/her/their acts violated specified University regulations or policies and is advised that further violations may result in the assigning of more severe sanctions.
- (5) Loss of Privileges: The student or group is denied specific privileges normally associated with student or group status, such as participation in recognized activities, use of University facilities or services, or living in University owned student residences.
- (6) Community Service: The student or group must perform a designated number of hours in service to the community affected by his or her behavior.
- (7) Restitution: The student or group must replace, restore, or pay for damaged, stolen, or misappropriated property.
- (8) Disciplinary Probation: The student or group is placed on a probationary status, with or without loss of designated privileges, which may include the following: restriction on an individual's participation in co-curricular activities, receiving recognition through awards, and eligibility for scholarships. Probation is a serious warning. Probation occurs for a specific period of time and/or prior to completion of certain specific activities.
- (9) Negative Notation on Transcript: There may be an entry of information onto the student's permanent academic record regarding his or her violation of the Code of Student Responsibility. The entry may be permanent or for a specific period and must be noted as such on the transcript. After the expiration of the period of time specified, the notation will be removed upon written request by the student to the Coordinator of Campus Judicial Affairs.
- (10) Suspension: The student or group is excluded from the University for a specific period and during that period may not enjoy academic privileges, participate in any University recognized function or group, or be allowed to reside in any University residence hall or building. If it is a group, the group may not function as a recognized group for a specific period of time.

- (11) **Expulsion:** The student or group is permanently excluded from the University and may not enjoy academic privileges, participate in any University recognized function, or be allowed to reside in any University residence hall or building.
- (12) **Degree Revocation:** The University may revoke a degree if a former student is found to have engaged in academic dishonesty in courses taken leading to the degree, or if the student is found to have engaged in actions that if known at the time the degree was awarded would have made the student unqualified for the degree.
- (13) **Deferred Sanction:** The execution of any sanction authorized under this Code may be deferred. When deferring a sanction the following will apply:
  - (a) Assignment of a time limit for the deferred period;
  - (b) Notice given that subsequent violations of the Code or failure to comply with an existing sanction will terminate the deferment and result in automatic imposition of the original sanction. In the absence of such violation(s), the original sanction will be deemed completed at the end of the deferred period;
  - (c) The Coordinator of Campus Judicial Affairs or other hearing officer will hear allegations of a student's misconduct during the period of his or her deferred sanction within five business days during which the University is in session. The original sanction will take effect at the time the Coordinator of Campus Judicial Affairs or other hearing officer receives notice of the allegations pending this hearing. The Coordinator of Campus Judicial Affairs or other hearing officer may render a decision in the absence of the charged student. The original sanction will remain in effect unless the allegations are not upheld; or
  - (d) A student found in violation of the Code of Student Responsibility during his or her period of a deferred sanction may appeal the finding through this Code's normal appeal process. The sanction will remain in effect until resolution of the appeal.
- (14) **Sanction of Restraint:** The student may not knowingly interact with another student or member of the University community specified by the sanctioning person or body. The restriction prohibits the restrained student from purposefully interacting with the protected person, over the phone, over any electronic source, in person, and through the mail. Unless specifically stated otherwise in the sanction, the restriction does not prohibit the restrained student from unintentionally, or out of necessity, being in the same building or vicinity as the protected student (e.g., eating in the Dining Hall, attending the same class). The sanctioning person or body will determine the time limit for this sanction.
- (15) **Suspension of Student Status for Medical or Mental Health Reasons Pending Hearing Procedures:** When evidence is received from an appropriate health professional which indicates that a student has a medical

or mental health condition which creates a serious and imminent threat to the University community, to the student, or to the educational processes of the institution, the Vice President for Student Affairs will review that evidence and may suspend the student immediately pending a hearing. The hearing must occur within ten business days during which the University is in session. The student may be required to submit to psychological or physical assessment and to authorize release of such records to the Vice President for Student Affairs or other appropriate University officials in order to be re-enrolled in the University.

- (16) Interim Sanction for Emergency Reasons: The Vice President for Student Affairs, the Coordinator of Campus Judicial Affairs, or their designee can invoke an interim, pre-hearing sanction when it is deemed necessary for the health or safety of the individual, other students, or University staff or faculty. In such instances where a student is assigned an interim sanction, the student will receive a hearing within ten working days in which the University is in session. Only when it is not possible to schedule necessary witnesses or obtain information significant to the case will the hearing be held more than ten working days in which the University is in session after assignment of the interim sanction. Interim sanctions include the following:
- (a) Expulsion;
  - (b) Suspension;
  - (c) Restraint;
  - (d) Removal from Residence Halls; or
  - (e) Holding Records.
- (17) Placement of VP Hold or Judicial Hold: A VP Hold prohibits the student from conducting most forms of business with the University, including receiving grades and sending or receiving transcripts. A Judicial Hold prohibits the student from registering for classes at the University. Holds are intended to be used with a time limit determined by the Coordinator of Campus Judicial Affairs or designee except in the case of expulsion when the VP Hold will be placed with no date of termination.
- (18) Other Sanctions as assigned that are deemed appropriate to the educational/developmental nature of this Code and the student(s) involved. Failure by a student to complete the sanctions imposed can result in further judicial action and sanctions being assigned to the student. Appeals of sanctions can be made through the appeal process (see section 574-032-0120).

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

## **DIVISION 32**

## JUDICIAL STRUCTURE

### 574-032-0000 Introduction

- (1) Western Oregon University's Campus Judicial Program holds the education of the student at its philosophical heart. This educational philosophy defines a structure for the Judicial Program which gives the charged student choices for resolving allegations of misconduct.
- (2) The current hearing structure includes three options which vary in their degree of formality and philosophy. In order from least to most formal, they are: Hearing with Mediators, Hearing with the Coordinator of Campus Judicial Affairs, and Hearing with the Student Conduct Committee.
- (3) The charged student first meets with the Coordinator of Campus Judicial Affairs who in turn helps direct the student to the proper arena for resolution of the allegation(s). The charged student always has the right to request that the hearing be held with a different party within the system. The party (individual or group) which hears the allegation(s) will dictate the formality of the proceedings, and all parties of the system, except for mediators, will retain equality in their jurisdiction and ability to assign sanctions.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

### 574-032-0010 Coordinator of Campus Judicial Affairs

- (1) With authority given by the President of the University, the Vice President for Student Affairs will select a Coordinator of Campus Judicial Affairs who will have primary responsibility for administering the Campus Judicial Program. These duties will include, but not be limited to:
  - (a) Acting as a first response by meeting with the charged student to explain his or her due process rights under this Code;
  - (b) Gathering information concerning the student's alleged violation of this Code for the purpose of referring the case to the proper action which includes:
    - (A) Dropping the allegation(s),
    - (B) Holding the allegation(s) for further information,
    - (C) Sending the allegation(s) to a mediated meeting,
    - (D) Hearing the allegation(s) in the role of the Coordinator of Campus Judicial Affairs,
    - (E) Referring the allegation(s) to the Student Conduct Committee;
  - (c) Making findings concerning allegations of student misconduct and assigning sanctions related to those findings;

- (d) Convening and coordinating the activities of all conduct hearings;
- (e) Advising the Student Conduct Committee, managing Student Conduct Committee hearings, and protecting the rights of the charged student, the victim(s), and the complainant(s);
- (f) Advising University officials and any hearing committees formed on the campus; or
- (g) Reporting statistics to Campus Safety and Security for the Campus Security Act.
- (h) Maintaining records pertaining to the activities of the Campus Judicial Program and providing the Vice President for Student Affairs with quarterly and annual reports of all judicial cases heard by mediators, the Coordinator of Campus Judicial Affairs, and the Student Conduct Committee. These reports will include information on the hearing authority, the nature of the violations, and the sanctions assigned. Appendices to these reports will include a summary of the minutes of the Student Conduct Committee and a report of the disposition of each judicial case.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

#### **574-032-0020 Student Conduct Committee**

- (1) The President of the University appoints the Student Conduct Committee which consists of no fewer than three faculty members, three professional unclassified staff members to serve on non-academic related cases, and no fewer than six student members. The faculty and staff members will serve for three years on a rotational basis so two experienced members of each classification serve each year.
- (2) The Coordinator of Campus Judicial Affairs solicits nominations for faculty appointments from the Department or Division Chairs and the Faculty Senate President by the end of each Spring term to fill whatever faculty vacancies exist.
- (3) The Coordinator of Campus Judicial Affairs solicits nominations for staff members from the Administrative Support Council and non-academic departments by the end of each Spring term to fill whatever staff vacancies exist.
- (4) The Coordinator may nominate a faculty and/or staff member to emeritus status when he or she leaves his or her rotation. This status recognizes outstanding service to the Committee by a faculty member. Members of this standing could still participate in Committee hearings, business meetings and social events, but would not be required to participate. Professors of this status also could serve the University and the Committee, including its

advisor, in a counsel and historian role. Final appointment to this status is made by the President.

- (5) The Coordinator of Campus Judicial Affairs solicits nomination for student appointments by the end of Spring term from the Residence Halls Association, the Associated Students of Western Oregon University (ASWOU), and the Vice President for Student Affairs. Each organization and the Vice President submit to the Coordinator a list of students willing to serve on the committee. The Coordinator interviews all nominees and then selects students for the Committee to fill any vacancies from the year before using the following quota: three students as on-campus, three students as off-campus, and (if numbers allow) two students as alternate representatives. The Coordinator then forwards the names to the President for approval. If the Coordinator does not receive nominations by the end of Spring term, he or she may, with the approval of the Vice President for Student Affairs, follow a different procedure for selecting student Committee members.
- (6) The Coordinator convenes the Student Conduct Committee early in Fall term of each year for orientation and training. Faculty, staff and student members of the Committee must attend training as a condition of their membership. Faculty, staff and students who do not attend training during the Fall and at other times during the year will be removed from the Student Conduct Committee.
- (7) The Student Conduct Committee reviews and recommends to the Vice President for Student Affairs appropriate changes to the Code of Student Responsibility. However, the Vice President for Student Affairs, the Coordinator of Campus Judicial Affairs, or any other campus individual or group may also recommend changes at any time. The Vice President for Student Affairs coordinates proposed changes with appropriate campus groups and places a notice in the student newspaper inviting interested parties to review the revision. Upon completion of the review process the Vice President for Student Affairs will recommend the changes to the President for final approval. The revisions become effective when filed with the Oregon Secretary of State's Office.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

#### **574-032-0030 Hearing Sub-Committee**

- (1) The Hearing Sub-Committee is a sub-committee of the Student Conduct Committee. This sub-committee will consist of a maximum of two faculty or staff members and four student members. Selection of sub-committee members for each hearing sub-committee is made by the Coordinator for

Campus Judicial Affairs. A minimum of one faculty or staff member and two students is required for a quorum, and a quorum must always consist of at least one more student than faculty or staff member. If a quorum cannot be obtained, a hearing will be postponed until a quorum is present, unless the student waives the requirement for a quorum in writing.

- (2) The Hearing Sub-Committee will meet at the request of the Coordinator of Campus Judicial Affairs to hear judicial cases. The Hearing Sub-Committee will select a chair for each hearing and that chair will submit findings and sanctions to the Coordinator of Campus Judicial Affairs. A faculty or staff member must always serve as chair.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0040 Appeals Sub-Committee**

An Appeals Sub-Committee is a sub-committee of the Student Conduct Committee formed as needed to hear appeals of decisions made by the Coordinator of Campus Judicial Affairs. An Appeals Sub-Committee consists of a maximum of two faculty or staff members and four student members. For more information concerning appeals, see the appeals section (574-032-0120).

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0050 Delegation of Authority**

- (1) Subject to the approval of the President, the Student Conduct Committee recognizes the University Residences Judicial System and grants the Director of University Residences authority to:
  - (a) Formulate regulations governing the conduct of residential students in and around campus operated residences;
  - (b) Formulate procedures and administrative practices to be followed by the Residence Halls Judicial Board;
  - (c) Assign judicial sanctions exclusive of expulsion, suspension, or negative notation on transcript, appropriate to the enforcement of campus residence regulations.
- (2) Students or groups may appeal decisions of the Residence Halls Judicial Board to the Coordinator of Campus Judicial Affairs who will determine if he or she will handle the appeal or refer it to the Student Conduct Committee. The student or group must file the appeal with the Coordinator of Campus Judicial Affairs within five working days in which the University is in session after receiving the sanction notice from the Residence Halls Judicial Board. The Judicial Board Chairperson will submit

to the Coordinator a copy of the appealing student's or student group's conduct file for each judicial case heard by the Residence Halls Judicial Board. The file will minimally include the charges, the findings, the sanction(s) assigned, the student's previous academic and disciplinary history, and information concerning the appeal process.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

## **Judicial Procedures**

### **574-032-0060 Complaint**

- (1) The judicial process at Western Oregon University begins with the receipt of one of the following by the Coordinator of Campus Judicial Affairs:
  - (a) A Campus Safety and Security or Residence Halls incident report; or
  - (b) Any other type of University incident report or complaint; or
  - (c) A police report; or
  - (d) A signed and written complaint by any individual or group, whether members of the University community or not. The complaint may be in the form of an incident report or letter.
- (2) Upon receipt of the complaint or report, the Coordinator of Campus Judicial Affairs will evaluate the information presented and determine whether enough information exists to make allegations that the student(s) named in the complaint or report engaged in activities prohibited by the Code of Student Responsibility. The Coordinator will evaluate this information in addition to determine if the alleged violations may result in suspension, expulsion, or negative notation on the transcript.
- (3) Within seven working days, not counting days when the University is not in session, from when the Coordinator determines that there is sufficient basis to charge the student named in the complaint or report (now called "the charged student"), the Coordinator will send the charged student a letter that includes the following:
  - (a) A notice for the student to meet with the Coordinator of Campus Judicial Affairs for a pre-hearing meeting;
  - (b) The alleged violations of the Code of Student Responsibility;
  - (c) The student's basic rights granted by the Code of Student Responsibility, including the right to have the case heard by the University Student Conduct Committee if sanctions of suspension, expulsion, or negative notation on the transcript could result;
  - (d) Notice that a copy of the Code of Student Responsibility can be found in the Vice President for Student Affairs' Office, on reserve at the Library, or at the Offices of the Associated Students of Western Oregon University; and

- (e) Notice that a decision affecting the student may be made even if the student fails to appear for a pre-hearing meeting.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0070 Pre-hearing Meeting with the Coordinator of Campus Judicial Affairs**

The purpose of a pre-hearing meeting with the Coordinator is to explain the conduct procedures to the charged student and to select the proper hearing body to resolve the allegations. The charged student may at this meeting request that the pre-hearing meeting serve as an actual hearing, thereby waiving his or her right to five days' written notice prior to a hearing, and, in cases where suspension, expulsion, or negative notation may result, waiving his or her right to Student Conduct Committee hearing. If the charged student does not wish the pre-hearing meeting to be treated as the actual hearing, a hearing will be scheduled with the hearing body the charged student has chosen at a time that gives the charged student at least five working days' notice prior to the hearing excluding days the University is not in session.

If the student does not appear for a pre-hearing meeting, the Coordinator will set a time and place for a hearing. If the case has been determined by the Coordinator to possibly result in suspension, expulsion, or negative notation on the transcript, the Coordinator will set a University Student Conduct Committee hearing. In all other cases, the Coordinator will set an informal hearing. The time between the student's receipt of the notice and the hearing date must be at least five days. The Coordinator will notify the student that he or she may waive the hearing before the University Student Conduct Committee and elect to have the case heard by the Coordinator if such a hearing has been set.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0080 Types of Hearings**

All those considering evidence at all levels of the judicial structure at Western Oregon University will base their decisions on a preponderance of the evidence. A preponderance of the evidence means that based on the information that is presented, the charged student has more likely than not, engaged in the charged misconduct.

*Stat. Auth.: ORS 351.070 & 351.072*

**574-032-0090 Hearing with the Coordinator of Campus Judicial Affairs**

- (1) The purpose of a hearing with the Coordinator of Campus Judicial Affairs is to:
  - (a) Consider information presented by the charged student, information from the complaint or report(s), and other supporting information;
  - (b) Make findings based on that information;
  - (c) Uphold or drop each allegation based upon the findings; and
  - (d) If allegations are upheld, assign sanctions commensurate with the violation(s) and the student's previous disciplinary and academic history. The Coordinator of Campus Judicial Affairs has authority to levy sanctions deemed appropriate under this Code (see 574-032-0010) or can refer the student and case to the Hearing Sub-Committee without action.
- (2) For all hearings with the Coordinator of Campus Judicial Affairs, the student has the following rights:
  - (a) To have access to his or her judicial file to the extent permitted by law after giving the Coordinator sufficient notice to purge the file of information within the file considered to be the educational record of another student(s);
  - (b) To have knowledge of the charges and the names of those providing information supporting the charges;
  - (c) To offer evidence challenging the statements of those providing information regarding the charges;
  - (d) To be notified in writing of the outcome of the hearing within five working days in which the University is in session;
  - (e) To request a hearing with the Hearing Sub-Committee; and
  - (f) To appeal to the appropriate University official/body as defined in the appeal process (see 574-032-0120).

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

**574-032-0100 Hearing with the Hearing Sub-Committee**

The Hearing Sub-Committee will be convened when requested by the Coordinator of Campus Judicial Affairs or the Charged Student. The Coordinator will present information pertinent to the case, which may include past conduct history of the charged student that is relevant to the case. The Coordinator, when appropriate, may present witnesses for both the charged student and the complainant, as requested by the Committee.

- (1) For all hearings with the Student Conduct Hearing Sub-Committee, the student has the following rights:
  - (a) Five working days' notice prior to the hearing, excluding days in which the University is not in session, unless the student waives this right in writing;
  - (b) To have knowledge of the charges and of those providing information supporting the charge;
  - (c) To have an advisor attend the hearing with the student. The advisor cannot speak for or represent the student. Failure of the advisor to comply with this stipulation will result in the removal of the advisor from the proceeding by the faculty chairperson of the Hearing Sub-Committee;
  - (d) To challenge the statements of the complainant(s) or victim(s) and those providing information supporting the charge;
  - (e) To have advance notification of the hearing process and procedures through the mail or in a meeting with the Coordinator. This meeting with the Coordinator is to be scheduled prior to the hearing. It is the student's responsibility to schedule this meeting;
  - (f) To not appear for a hearing, and not have that absence used against him or her;
  - (g) To remain silent during a hearing, and not have that silence used against him or her;
  - (h) To be notified in writing of the outcome of the hearing within five working days in which the University is in session; or
  - (i) To appeal to a University official, or hearing body.
- (2) The student may present information on his or her own behalf and challenge the statements of complainants, witnesses, and statements read during the hearing. The student may be accompanied to the hearing by a person of the student's choosing (advisor) who may neither represent the student nor present the student's case. An advisor who fails to comply with the advisor role restrictions or who disrupts the hearing may be removed from the advisor role and excluded from the hearing.
- (3) The members of the Hearing Sub-Committee may question the charged student, witnesses, and complainants to determine facts relevant to the case. The Hearing Sub-Committee, during deliberations, will resolve all issues of fact based on the evidence presented at the hearing. Based upon these findings the Hearing Sub-Committee renders a decision concerning whether to uphold or drop each separate allegation. While the Hearing Sub-Committee resolves the allegations only the Hearing Sub-Committee members are present.
- (4) The findings will be announced to the charged student following deliberations and, at that time, the Coordinator will present information

concerning the charged student's academic record and any previous judicial record. The charged student may also present information relevant to his/her/their previous record, as well as circumstances which may have a bearing on possible sanctions.

- (5) For the determination of sanctions, only the Hearing Sub-Committee members are present. Following that determination, the Chair of the Committee will announce, with the charged student present, the sanctions the Hearing Sub-Committee assigned.
- (6) The Coordinator of Campus Judicial Affairs will confirm in writing to the charged student the results of the hearing within five working days in which the University is in session.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0110 Procedures when Charged Student Fails to Appear at Hearing**

When the charged student fails to appear at the time specified for a hearing, provided no prior arrangements for delay have been confirmed, the hearing will be held with the charged student not present. The results of the hearing will indicate that the hearing was held with the charged student in absentia. The charged student's absence cannot be assumed to be an admission of responsibility; nor can it be used in any way in the hearing body's or officer's determination of facts or judgment.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0120 Appeal of Hearing**

- (1) A student in violation may appeal decisions reached at a hearing. The appeal must be filed within five working days in which the University is in session following the date the student receives notice of the hearing results. Appeals must be delivered, in writing, to the Office of the Vice President for Student Affairs or the Office of University Residences. Appeals for academic dishonesty cases must be delivered to the Office of the Provost. An appeal form must include specific justification for the appeal as listed in (3) below.
- (2) The Coordinator for Campus Judicial Affairs may appeal decisions reached at a hearing to the Vice President for Student Affairs if the Coordinator believes the decision is not in compliance with University Standards.
- (3) Except as required to explain the basis of new evidence, an appeal will be limited to review of the accurate record of the initial hearing and supporting documents for one or more of the following purposes:

- (a) To determine whether the original hearing was conducted in conformity with the procedures described in the Code of Student Responsibility;
  - (b) To determine whether the decision reached regarding the charged student was based on a preponderance of the evidence; that is, whether the facts presented were sufficient to establish that a violation of the Code of Student Responsibility occurred;
  - (c) To determine whether the sanction(s) imposed were appropriate to the charged student's previous judicial history and to the present violation(s) of the Code of Student Responsibility; or
  - (d) To consider new evidence, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.
- (4) The following decisions may be made by the Appeals Body:
- (a) That evidence exists not available at the time of the hearing sufficient to alter the original decision. In this case the Appeals Body remands the case to the original hearing body for a supplemental hearing;
  - (b) The appeal is denied. In this case, the entire decision of the original hearing body, including sanctions, remains effective. New violations can never be found through the appeal process; or
  - (c) The appeal is upheld. In this case, the Appeals Body renders a new decision, including reducing or removing sanctions, and/or replacing the findings and sanctions of the original hearing body or officer.
- (5) Procedure
- (a) The Vice President for Student Affairs will hear appeals of hearings with the Student Conduct Hearing Sub-Committee and appeals of hearings with the Coordinator of Campus Judicial Affairs;
  - (b) An appeals sub-committee of the Student Conduct Committee or the Vice President for Student Affairs will hear appeals of hearings with the Coordinator of Campus Judicial Affairs;
  - (c) The Provost will hear appeals of cases of academic dishonesty;
  - (d) The Coordinator of Campus Judicial Affairs will hear appeals of hearings with the Residence Halls Judicial Board;
  - (e) Upon receipt of the appeal, the Appeals Body may suspend any or all sanctions pending its decision;
  - (f) The Appeals Body must consider the appeal based on the record, with no new evidence considered. If new evidence becomes available, the Appeals Body must remand the case to a new hearing with the original hearing body. The Coordinator of Campus Judicial Affairs must provide a complete and accurate record of the original hearing to the Appeals Body. The Appeals Body may, but is not required to, meet with the student regarding his or her appeal; and

- (g) Within ten days in which the University is in session following receipt of the appeal, the Appeals Body will notify the student in writing of the results of the appeal.

*Stat. Auth.: ORS 351.070 & 351.072*

*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0130 Hearing with Mediators**

The Judicial Program at Western places confidence in the process of mediation as a preventative and educational method of intervention for student misconduct. When the Judicial Program makes use of mediation it does so with the primary goal of diverting students from the adjudicative and, in some cases, adversarial judicial hearing process. The anticipated outcome of this action is for participants in mediation to voluntarily create a resolution to their conflict that is confidential and non-binding.

The Judicial program is primarily an adjudicative process which often must address allegations that a charged student's behavior harmed another person. In some of these cases, mediation may be used as a diversion or as a sanction in the form of victim/offender reconciliation. The nature of a case involving a victim and an offender necessitates a modification of the way mediation traditionally is structured. In victim/offender mediations, participation by the charged student may not be voluntary, the mediated agreement may not be confidential, and the mediated agreement may become binding for the charged student.

(1) Uses:

- (a) Use of Mediation in the Absence of Charges. Disputants not charged with a violation of the Code of Student Responsibility may use mediation at any time by making a request for mediation services at the Office of the Vice President for Student Affairs or the Office of University Residences. This includes victim/offender mediation in which the victim declines to file a complaint and the Coordinator of Campus Judicial Affairs does not pursue the allegations;
- (b) Use of Mediation after a Complaint is Made. When a victim files a complaint with the Campus Judicial Program alleging that the behavior of a charged student harmed him or her, or when judicial action is initiated by a report of harmful treatment to the person, mediation may be used in place of the adjudicative process, provided both victim and charged student agree to such mediation. All charges are suspended pending the victim's and the charged student's satisfaction with the outcome of the mediation. The victim has the right to return the complaint to the Coordinator for a formal judicial review if he or she is not satisfied with the outcome of mediation;

(c) Student Found In Violation and Victim Chooses Mediation. When a charged student has been found in violation of any section of the Code where that charged student's behavior victimized or harmed another member(s) of the University community, victim-offender mediation may be assigned as a sanction.

(2) Mediation Procedures

A student(s) charged with a violation of the Code may request to use mediation at any time during the judicial process. A victim may request mediation without filing a complaint. Mediations of this type are non-binding except in cases noted below, and confidential to the extent permitted by law.

(a) Victim/Charged Student, Voluntary Mediation:

- (A) Mediation between a victim and a charged student may occur at the request of either party and with the consent of and voluntary participation of both parties;
- (B) Before or during a student conduct hearing, the Coordinator of Campus Judicial Affairs may offer mediation to a charged student in place of that hearing;
- (C) When all parties agree to mediation, mediation will be used in place of the adjudicative process;
- (D) Agreements reached when mediation is used in place of adjudication will be binding with the permission of the victim. Permission for a binding agreement will be given to the Coordinator of Campus Judicial Affairs by the victim prior to the mediation. In such a case, the binding agreement becomes a de facto sanction and will become part of the charged student's judicial file. The charged student must adhere to the agreement or face possible future judicial action;
- (E) The victim may, at any time, withdraw permission for a binding agreement and/or withdraw his or her complaint. In this case, the mediation becomes confidential and non-binding;
- (F) The victim may, at any time, withdraw his or her complaint and withdraw from the mediation process;
- (G) The charged student may, at any time, withdraw from the mediation process. Such action by the charged student, however, may return the original charges to the adjudicative process;
- (H) If the victim reports dissatisfaction with the outcome of the mediation he or she may return his or her complaint to the adjudicative process for a student conduct hearing; and
- (I) The Coordinator of Campus Judicial Affairs will, in most cases, honor the victim's request to withdraw his or her complaint from the adjudicative process. The Coordinator may, however, adjudicate charges whenever he or she determines that it is in the best interest of the University community to do so.

- (b) Mandated participation in mediation when charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the adjudicative process, participation in a victim/offender mediation may be assigned to the charged student as a sanction. When mediation is used as a sanction, the following will apply:
  - (A) The victim must agree to such a sanction in advance;
  - (B) The charged student must verify that he or she attempted mediation in order to fulfill the sanction of mediation; and
  - (C) Unless otherwise requested by the victim, agreements reached during sanctioned mediations will be submitted to the Coordinator of Campus Judicial Affairs. This agreement will serve as a part of the sanction which the charged student must complete. Failure to abide by the agreement may result in the charged student facing further judicial charges for failure to complete a sanction.
- (c) Automatic Diversion from the Adjudicative Procedures
  - (A) When two or more students have been charged with violating the Code of Student Responsibility for the same event, the Coordinator of Campus Judicial Affairs may offer, or the students may request, to use mediation as a diversion from the adjudicative process. The Coordinator of Campus Judicial Affairs may assign interim sanctions pending the mediation. The following conditions must apply:
    - (i) Two or more students have been involved in the same incident,
    - (ii) The students have each been charged with violations of the Code based on the same incident,
    - (iii) The students are each victims of the other's behavior (e.g., by assault, vandalism, theft, etc.),
    - (iv) The students willingly agree to fully participate in mediation,
    - (v) The students agree to share the results of the mediation with the Coordinator of Campus Judicial Affairs, and
    - (vi) The mediated agreement becomes binding and must be adhered to by both parties as a sanction unless otherwise indicated by the Coordinator of Campus Judicial Affairs.
  - (B) The Coordinator of Campus Judicial Affairs may return the case to the adjudicative process for the following reasons:
    - (i) One or more of the students does not participate in the mediation,
    - (ii) Substantial evidence exists that one or more of the students poses a clear and present threat to him or herself or others; or
    - (iii) One or more of the students fails to adhere to the agreement.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0150 Rights of Victims**

A fundamental aspect of the Code of Student Responsibility is to provide procedures that ensure the Constitutional rights of the charged student. However, the University also recognizes that the victims of misconduct should also have rights. Therefore, the following rights of victims must be guaranteed during judicial proceedings conducted by the University.

- (1) A victim has the right to be identified as a witness and provide a witness statement.
- (2) A victim has the right to have a person of her or his own choice accompany her or him while in attendance at the judicial hearing.
- (3) Unless it bears directly on the charges, a victim has the right not to have her or his past history or behavior discussed during a hearing. This includes reference to past violations of the Code of Student Responsibility, past sexual history, and past indiscretions of any type.
- (4) A victim has the right to make a victim impact statement only when the charged student's alleged harmful behavior against the victim is upheld. The victim impact statement may only be used or considered for sanctioning purposes.
- (5) A victim has the right to be shielded from face to face contact with the charged student.
- (6) A victim has the right to be kept informed during the judicial process within legal guidelines; and
- (7) A victim has the right to be informed immediately of the outcome of a hearing within legal guidelines.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*

### **574-032-0160 Revising and Interpreting the Code of Student Responsibility**

- (1) Refer all questions concerning the Code of Student Responsibility to the Coordinator of Campus Judicial Affairs. The Coordinator of Campus Judicial Affairs is the final interpreter of the Code of Student Responsibility.
- (2) The Code of Student Responsibility will be reviewed no less than once every five years under the direction of the Coordinator of Campus Judicial Affairs.
- (3) A formal, written request to review the Code of Student Responsibility may be submitted to the Coordinator of Campus Judicial Affairs.

*Stat. Auth.: ORS 351.070 & 351.072*  
*Stats. Implemented: ORS 351.070 & 351.072*