

CODE OF STUDENT RESPONSIBILITY

Section 1: Overview, Standards, and Sanctions

I. 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 the Student's 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.
3. The University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. Such an environment is necessary to a healthy learning, working, and living atmosphere because discrimination and harassment undermine human dignity and the positive connection among all people at our University. Consistent with state and federal law, reasonable accommodation will be provided to persons with disabilities.
4. The application of the standards within this Code applies to individuals, clubs, educational activity groups, other Student groups, fraternities and sororities, 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 became effective September 1, 2017 and supersedes all other previous conduct codes.

II. Definitions

The following terms have the following definitions.

1. The term "**Adjudication**" or "**Adjudicated**" or "**Adjudicative**" means a method of resolving allegations of Student misconduct which employs a fact-finding, impartial adjudicator to render a binding decision in the matter.

2. The terms "**Administration or Staff Person**" mean any person who holds a current non-academic appointment or classified position at the University.
3. The term "**Advisor**" means any person who has elected to advise a Respondent, Witness, or a Complainant within a Student conduct hearing.
4. The term "**Appeals Body**" means any person or group charged with hearing appeals through this Code (e.g., the Vice President for Student Affairs).
5. 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.
6. The term "**Campus**" means any property owned, used or controlled by the University.
7. The term "**Code**" means this Code of Student Responsibility.
8. The term "**Committee**" means the University Student Conduct Committee.
9. 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 Student Conduct Program concerning a Student.
10. The term "**Dean of Students**" means the person designated by the Vice President for Student Affairs as the administrator of the University's Campus Student Conduct Program.
11. The term "**Disputant**" means any person who uses Mediation within the Campus Student Conduct Program to resolve a conflict with another party or parties.
12. The term "**Faculty**" means any person who holds a current academic appointment at the University.
13. The term "**Fraternity Sorority Council**" means the governing body of all fraternities and sororities at Western Oregon University
14. The term "**Greek Organization**" means a group of men or women who are bound together by mutual interests, goals, and beliefs. Members share certain values that are expressed through their ritual ceremonies, mottoes, and symbols.
15. 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. Mediation is not available for allegations involving sexual harassment or misconduct.
16. The term "**Member of the University Community**" means any Student, Faculty, Administration or Staff Person at the University.

17. The term "**Office of Student Conduct**" means the office that administers the University Student Conduct System and includes the Dean of Students, Coordinator for Conduct and Community Standards, Student Conduct Assistant and other designees.
18. The term "**Preponderance of the Evidence**" means that based on the information that is presented, the Respondent has more likely than not, engaged in the charged misconduct.
19. The term "**Reasonable Person**" means a member of the community with an ordinary degree of reason, prudence, care, foresight, or intelligence whose conduct, conclusion, or expectation in relation to a particular circumstance or fact is used as an objective standard by which to measure or determine something.
20. The term "**Recognized Student Organization**" means a club, educational activity group or other Student group that has complied with the requirements for University recognition.
21. The term "**Respondent**" means any Student who has allegedly violated this Code.
22. The term "**Responsible Employee**" means any person that has the authority to take action to redress harassment, has the duty to report harassment or other types of misconduct to appropriate University officials, or a person a Student could reasonably believe to have such authority or responsibility to take action.
23. The term "**Staff**" means any person who holds a classified or unclassified appointment at the University.
24. The term "**Student**" means a person who is enrolled at Western Oregon University or any person meeting the description in Introduction Section (4).
25. The term "**Student in Violation**" means any Student found to be in violation of the Code through the Campus Student Conduct Program.
26. The term "**Survivor**" means any person not charged with a violation of the Code who reports sexual misconduct, domestic violence, intimate partner violence, stalking or harassment by a Student.
27. The term "**University**" means Western Oregon University, WOU, or any part or division within Western Oregon University.
28. 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 Administrative 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 (i.e. registration of event form, travel form, etc).
29. The term "**Victim**" means any person not charged with a violation of the Code who has been harmed by the behavior of a Student in Violation. When referring to situations in which a Respondent has not been found in violation of the Code, this person is referred to as an alleged Victim.
 30. The term "**Visitor/Guest**" means a non-Student or person not affiliated in any official way with Western Oregon University.
 31. The term "**Witness**" means any person who has information which pertains to a case of alleged Student misconduct.
 32. The term "**Working Day**" means any weekday that is not listed as a University holiday on the University calendar. Days when classes are not in session but the University is open for business, are "Working Days."

III. Standards of Conduct

In order to promote a safe and civil Campus environment, the University expects each Student, Student Organization, and Greek Organization to follow the standards of conduct. The severity of the offense, prior disciplinary history, whether an offense was committed against a person intentionally selected by reason of their race, religion, national origin, gender, sexual orientation, gender identity, disability, or age, and other relevant circumstances will be considered in determining the appropriate disciplinary action.

IV. Delegations and Authority

The Board of Trustees of Western Oregon University delegates authority for administering this Code and the Student Conduct program as provided below:

1. The Office of Student Conduct shall develop policies for the administration of the Student conduct system and procedural that are consistent with provisions of the Code of Student Responsibility.
 - a. Consistent with this Code the Vice President for Student Affairs' designee may serve ad hoc in place of the Dean of Students.

2. The Office of Student Conduct shall be responsible for recommending to the Board of Trustees of Western Oregon University policy or administrative changes in any aspect of the Code.

V. Jurisdiction

This Code applies to University Students, and Student Organizations, including Greek Organizations. The Code primarily prohibits misconduct on University premises (buildings or grounds owned, leased, operated, controlled, or supervised by the University), but may address off Campus conduct when the behavior or the presence of the individual, in the University's sole judgment, impairs, obstructs, or interferes with the mission, processes, or functions of the University. The regulations contained in the Code 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 On- and Off-Campus Events

The University reserves the right to review and take disciplinary action based on conduct occurring off Campus.

VII. Organizational Responsibility

Recognized Student Organizations and Greek Organizations are subject to the same conduct standards as individual Students. An organization may be held responsible for a violation of University policy or rule when:

1. One or more of its officers, members, or authorized representatives acting as a member of the organization commit the alleged violation;
2. The alleged violation occurs at an event that is sponsored, financed, or endorsed by an organization where it is reasonable to believe that the organization's members knew or should have known that one or more of the participants engaged in conduct that is in violation of this Code;
3. The alleged violation occurs on the premises owned, leased, or operated by the organization where it is reasonable to believe that the organization's members knew or should have known that one or more of the participants engaged in conduct that is in violation of this Code;

Any Student, Student Organization, Greek Organization that is found responsible for violating the Code will be assessed an administrative fee of \$50 per incident.

If a Student, Student Organization, or Greek Organization breaks a law that also violates the University standards of conduct, that Student, Student organization, or Greek Organization may be held accountable by both civil authorities and the University. The University may, at its sole discretion, elect to pursue disciplinary action against the Student, Student organization, fraternity or sorority prior to, at the same time as, or following criminal proceedings, even if

criminal charges involving the same incident are pending, have been dismissed, or were reduced.

Misconduct by non-students (Business Visitors, Visitors/Guests) whether the person is on-Campus or at a University Sponsored On- or Off Campus Event may result in a trespass from Campus or any future WOU event.

Allegations of Student misconduct may be Adjudicated within the University's administrative Campus Student Conduct 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. Determinations made or sanctions imposed under this Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

VIII. 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 Adjudication.

Adjudication may be initiated by the University and educational 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 Misconduct.

Acts of academic misconduct which includes but is not limited to:

- a. Cheating -- intentional use, or attempted use of artifice, deception, fraud, or misrepresentation in completing, submitting, or recording one's academic work;
- b. Fabrication -- unauthorized falsification 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 misconduct. This includes Students who substitute for other persons in examinations, fake other person's attendance, or allow another person to copy work or represent as the Student's own papers, reports, or any other academic work or the 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 or use of electronic data of another person or persons as one's own, or using such data without giving proper credit for it;
- e. Any use or attempted use of electronic devices in gaining an advantage in academic work in which the use of these devices is prohibited. Such devices include but are not limited to cell phones, smart phones, Personal Digital Assistants, electronic tablets, laptops, programmable calculators, USB flash drives or other removable memory devices, etc.; or
- f. Engaging in any behavior specifically prohibited by a Faculty or Staff member in the course syllabus or class discussion.

2. Alcohol.

- a. Possession, consumption, distribution, 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.
- b. Possession, consumption, sale, or distribution of alcoholic beverages during the official portion of a University Sponsored On- or Off-Campus Event as defined by the Faculty or Staff advisor.
- c. Promoting the use, misuse or abuse of alcohol or causing the ingestion of alcohol without a person's knowledge.

3. Computer/Network Resources Misuse.

Use of Campus computers 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 or overloading computing resources;
- d. Violation of copyright laws;
- e. Using a computer account not issued directly to the Student;
- f. Sending or posting threatening or harassing statements as described in section (8) Harassment, Discrimination, or Bullying Behavior;
- g. Any violation of the Acceptable Use of University Computing Resources Policy; or

- h. Unauthorized transfer of a file.

4. Controlled or Illegal Substances.

- a. Possession, consumption, manufacture, cultivation, packaging, distribution, or sale of illegal drugs or any other controlled substance on- or off- University owned or controlled property.
- b. Possession, consumption, sale, or distribution of illegal drugs or any other controlled substance during the official portion of a University Sponsored On- or Off-Campus Event as defined by the Faculty or Staff advisor.
- c. Intentionally misusing or distributing prescription drugs.
- d. Promoting the use, misuse or abuse of illegal drugs or controlled substances or causing the ingestion of such substances without a person's knowledge.

5. Disorderly Conduct.

Disorderly conduct is the unreasonable or reckless behavior by an individual or group that creates a potentially unsafe situation for members of the community or damages property; disrupts the peace or interferes with the normal operation of the University or University sponsored events; and/or infringes on the rights of others.

Disorderly conduct includes, but is not limited to: reckless driving; interrupting or interfering with the carrying out of the duties of a University or public official, including law enforcement; and vomiting and/or urinating in public.

Disruptive Conduct is any behavior by an individual or group that interferes with the normal operation of the University and the overall educational experience. It hinders or prevents others and/or self from carrying out their educational responsibilities.

- a. 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 self or others;
 - 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);
 - E. The functions of the University; or

- F. Any other University activity or University sponsored activity or event.
- b. Unreasonable noise or conduct that results in unreasonable annoyance (i.e. yelling while walking through Campus or a community neighborhood at 2am).
- c. Any unauthorized use of electronics or other devices to make an audio or video record or an image of any person while on the Campus without the person's prior knowledge or without the person's effective consent when the recording is likely to cause injury or distress. This includes recording of sexual conduct or "upskirting" recordings.

6. Failure to Comply.

- a. Refusal to comply with a reasonable request of law enforcement or other authorities.
- b. Refusal while on University 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, residence hall staff, Faculty, Administration or Staff person.

7. Fire and Life Safety.

- a. Tampering with fire safety equipment, generating a false alarm, or engaging in behavior that constitutes a fire or safety hazard.
- b. 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.

8. Harassment, Discrimination, or Bullying Behavior.

Harassment, which includes but is not limited to:

- a. Physical contact with or physical interference with a person which:
 - A. Is objectively offensive;
 - B. Objectively causes pain;
 - C. Prevents or disrupts the person from any lawful chosen activity;
 - D. Puts the person in fear for safety; or
 - E. Causes damage to person or property.
- b. Conduct without physical contact or physical interference with a person, including but not limited to harassing, bullying or threatening behavior, including verbal communication, which is intended to and has the effect of:

- A. Substantially disrupting another person's lawful activity;
 - B. Causing another person to be subject to unwelcome or offensive physical contact;
 - C. Causing personal injury or property damage or risk of personal injury or property damage;
 - D. Causing another person to be subject to unwelcome and objectively unreasonable interference with mental and emotional health;
 - E. Putting the person in fear for safety; or
 - F. Harassing or bullying another person based on their actual or perceived race, color, national origin, sex, age, disability, sexual orientation, gender identity, or religion.
- 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 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.

It is a defense to any charge of harassment if the alleged harassing conduct is not objectively unreasonable.

9. Hazing.

Hazing is 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.

It is not a defense to a charge of hazing if the Victim(s) of the hazing acknowledges or implies consent, or acquiesces to the hazing.

10. Inciting or Provoking Others.

- a. Inciting others to engage in any University prohibited forms of conduct. 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 University, including the safety of its Students, Faculty, Administration or Staff Person, and the protection of its property.
- b. Specifically insulting another person in that person's 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.

11. Interference or Contempt of Adjudicative Proceedings.

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 Adjudication proceedings administered under this Code;
- c. Knowingly giving false information at a hearing or knowingly giving false information in a statement to be used as evidence at a hearing, or knowingly giving false information to a Campus hearing officer;
- d. Failure by a Witness to appear at a conduct hearing when requested to do so by a representative of the Campus Student Conduct Program;
- e. Knowingly and falsely initiating the Adjudication process, for instance, by filing a false complaint or report;
- f. Influencing or attempting to influence the impartiality of a member of a Campus Student Conduct Hearing Committee or a hearing officer or a Witness;
- g. Harassment of a member of a Campus Student Conduct Hearing Committee or hearing officer prior to, during, or after an Adjudication; or

- h. Failure to comply with the terms of any sanction imposed in accordance with the Code or mandated by the University Housing Student Conduct Board.

12. Misrepresentation of Matters of Fact.

- a. Knowingly furnishing false information to an authorized University official who is making an inquiry to carry out official University business;
- b. Representing oneself 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;
- 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; or
- f. Recognized Student Organizations representing themselves or an individual in the group representing themselves as acting for or on 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).

13. Obstruction, Disruption or Interference.

- a. Obstruction or disruption of teaching, research, administration, Adjudication procedures, or other University activities, including the University's public service functions, other authorized activities, or University Sponsored On- or Off-Campus Events.
- b. Disruption of Campus activities or the functions of the University.
- c. Obstruction or disruption which interferes with the freedom of movement, either pedestrian or vehicular, on University owned or controlled property.

14. Publications and Media.

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.

15. Sexual Misconduct.

The University prohibits all forms of sexual misconduct. Sexual misconduct is an umbrella term encompassing a range of behavior, including sexual harassment, sexual violence, sexual assault, intimate partner violence, domestic violence, dating violence, and stalking. In general, sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to incapacitation. Intimate partner violence refers to any act of violence or threatened act of violence, sexual or otherwise, against a person who is or has been involved in a sexual, dating, domestic or other intimate relationship with that person. The prohibited conduct of this policy includes a broad range of behavior.

Within these broad categories, the University prohibits sexual harassment, sexual assault, sexual exploitation, harm to others, stalking and retaliation.

- a. Sexual Misconduct is non-consensual sexual contact of any kind, the attempt to have non-consensual sexual contact or the threat of such contact. Sexual contact shall be considered non-consensual if no clear consent is freely given.
 - A. Sexual contact.
Includes but is not limited to touching of the genitalia, anus, buttocks, breast or mouth, as well as, any contact for the purpose of sexual gratification.
 - B. Sexual behavior.
Includes but is not limited to any action, short of sexual contact, done for the purposes of sexual gratification, and may include but is not limited to voyeurism, exposing, masturbation, frottage, and audio/video recording.
 - C. Force.
Includes but is not limited to physical force, violence, abuse, threat of force (direct or implied), intimidation, extortion, harassment, coercion, fraud, duress or pressure.
 - D. Sexual exploitation.
Occurs when a person takes non-consensual, unjust or abusive advantage of another in a sexual or intimate context, for their own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and that behavior does not otherwise constitute non-consensual sexual misconduct. Sexual exploitation includes permitting or facilitating non-consensual viewing, taking of photographs, videotaping, or audio taping of sexual or intimate activity, knowingly infecting another person with HIV or any sexually transmitted infection, inducing incapacitation of another person with the intent to facilitate sexual misconduct against that person, or compelling prostitution.
- b. 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;
 - 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.
- c. Domestic Violence is a pattern of abusive behaviors that are used to gain or maintain power and control over an intimate partner. A charge of misconduct occurs when the domestic violence is perpetrated by:
- A. A current or former spouse or intimate partner of the Victim;
 - B. An adult who is related to the Victim by blood or marriage;
 - C. A person with whom the Victim shares a child in common;
 - D. A person who is cohabitating with or has cohabitated with the Victim as a spouse or intimate partner;
 - E. A person similarly situated to a spouse of the Victim under the domestic or family violence laws of the State of Oregon;
 - F. By any other person against an adult or youth Victim who is protected from that person's acts under the Oregon Domestic Violence laws of the State of Oregon.
- d. Intimate partner violence is also referred to as dating violence, domestic violence, and relationship violence. Intimate partner violence includes:
- A. Any act of violence or threatened act of violence against a person who is or has been involved in a sexual, dating, domestic, or other intimate relationship by the other person in the relationship.
 - B. One act or an ongoing pattern of behavior.

Intimate partner violence can encompass a broad range of behavior, including but not limited to physical violence, sexual violence, emotional violence, and economic abuse. Intimate partner violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, and/or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities and expressions, sexual orientation, and racial, ethnic, social, and economic backgrounds.

- e. Stalking another person which includes but is not limited to:
 - A. Following or lying in wait for the Victim, the Victim's relatives, friends or pets;
 - B. Repeated unwanted, intrusive and frightening contact from the perpetrator by phone, mail, electronically or otherwise;
 - C. Damaging the Victim's property;
 - D. Making indirect or direct threats to harm the Victim, the Victim's relatives, friends or pets;
 - E. Repeatedly sending the Victim unwanted gifts;
 - F. Harassment through the internet, known as "cyberstalking," "online stalking," or "internet stalking"; or
 - G. Securing and accumulating personal information about the Victim by accessing public records, using internet search devices, hiring private investigators, contacting friends, family, work, or neighbors, going through the Victim's garbage, etc.

The following definitions will apply to sexual misconduct:

- a. Consent for all sexual activity must be given free of force, threat, intimidation, or coercion. At the time of the sexual activity, actual words or conduct demonstrating freely given agreement must occur; silence or passivity do not imply consent. Activity of a sexual nature is considered nonconsensual when:
 - A. An individual is asleep, unconscious, or otherwise physically unable to communicate his or her willingness or unwillingness to engage in sexual activity;
 - B. An individual lacks the ability, at the time of sexual activity, to be able to understand the nature or consequences of the activity, whether due to illness; impairment; the influence of alcohol, drugs, or medication; or another cause; or
 - C. An individual is not of legal age to give consent.
- b. Non-consensual is the absence of shared sexual permission. Shared sexual permission is clear, voluntary, non-coerced and clearly indicates a willingness to participate in sexual contact/behavior, whether through affirmative verbal response or non-verbal communication unmistakable in meaning and given by an adult (age 18 or older). Shared sexual permission to one form of sexual contact/behavior does not operate as permission to any other form of sexual contact/behavior or reoccurrence of the same form of sexual contact/behavior.

- A. Incapacitation is a mental or physical condition that renders a person unable to grant consent. Incapacitation may be a state or condition resulting from the use of alcohol or other drugs, lack of sleep, sleep, and unconsciousness. Incapacitation may also be the result of a cognitive impairment, such as a developmental disability, brain injury, or mental illness.
- B. Coercion is a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act which otherwise would not have been performed or acquiesce in an act to which one would not have submitted. Coercion can include unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. A person's words or conduct cannot amount to coercion unless the person wrongfully impairs another individual's freedom of will and ability to choose whether or not to engage in sexual activity. When an individual makes it clear that there is no interest to engage in sexual activity, that the person wants to stop, or that the person does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

16. Threatening or Abusive Behavior.

- a. Detention of any person.
- b. Conduct which threatens imminent bodily harm or endangers the physical or emotional health of any person or oneself.
- c. Physical or emotional abuse of any person.

17. Vandalism/Theft/Unauthorized Use of Property.

- a. Malicious damage, misuse, or theft of University property, or the property of any person where such property is located on University owned or controlled property, or, regardless of location, is in the care, custody or control of the University.
- b. 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.
- c. Unauthorized entry to or use of University facilities, including buildings and grounds (including, but not limited to, non-residential Students gaining access to overnight accommodations in University Housing without permission; Students accessing the Health and Wellness Center without proper identification or payment, etc).
- d. Failure by a person causing accidental damage to or removal of property to report to appropriate University Staff or the individual owner within a reasonable period of time following the accidental damage to or removal of University or personal property.

18. Violation of Policies, Standards and Laws.

- a. Violation of published University policies, rules, or regulations.
- b. Violation of residence hall rules and procedures as listed in official residence hall publications.
- c. Violation of federal, state, or local law.
- d. Violation of motor vehicle rules and regulations, or other policies adopted by the University pertaining to the use of motor vehicles.

19. Dangerous Weapons and Destructive Chemical or Incendiary Devices.

Possession or use of fireworks, explosives, dangerous chemicals, or other weapons or dangerous instruments on University owned or controlled property.

IX. 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. **Alcohol/Drug Assessment:** A Student may be assigned to complete an alcohol or drug evaluation and to follow the recommendations of the alcohol/drug counselor for treatment or education.
2. **Community Service:** The Student or Recognized Student Organization must perform a designated number of hours in service.
3. **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.
4. **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 may 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 Dean of Students, Coordinator for Conduct and Community Standards or other hearing officer will hear allegations of a Student's misconduct during the period of the Student's deferred sanction within five Working Days after receipt of the allegations of

the Student's misconduct. The original sanction will take effect at the time the Dean of Students, Coordinator for Conduct and Community Standards or other hearing officer receives notice of the allegations pending this hearing. The Dean of Students, Coordinator for Conduct and Community Standards or other hearing officer may render a decision in the absence of the Respondent. The original sanction will remain in effect unless the allegations are not upheld; and

- d. A Student found in violation of the Code during the Student's 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.
5. 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.
6. Disciplinary Probation: The Student or Recognized Student Organization 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 or prior to completion of certain specific activities. Violation of probation can result in more severe sanctions for future violations of the Code.
7. Expulsion: The Student or Student Organization 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.
8. Interim Sanction for Emergency Reasons: The Vice President for Student Affairs, the Dean of Students, Coordinator for Conduct and Community Standards, or their designee can invoke an interim, pre-hearing sanction when it is deemed necessary for the health or safety of the Student, other Students, or University Administration or Staff or Faculty. In such instances where a Student is assigned an interim sanction, the Student will receive a hearing within twenty Working Days. Only when it is not possible to schedule necessary Witnesses or obtain information significant to the case will the hearing be held more than twenty Working Days after assignment of the interim sanction. Interim sanctions cannot be appealed. Interim sanctions include but are not limited to the following:
 - a. Expulsion;
 - b. Suspension;
 - c. No Contact Order;
 - d. Removal from Campus;
 - e. Removal from Residence Halls; or

f. Holding Records.

9. Loss of Privileges: The Student or Recognized Student Organization is denied specific privileges normally associated with Student or group status, such as participation in recognized activities, recognition by the University, use of University facilities or services, or living in University owned Student residences.
10. Mediation: When charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the Adjudication process, the Student may be assigned to participate in Mediation with the Victim. Mediation is not provided as an option for allegations involving sexual misconduct or sexual harassment.
11. Negative Notation on Transcript: There may be an entry of information onto the Student's permanent academic record regarding the Student's violation of the Code. 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 Office of Student Conduct.
12. No Contact Order: 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 (including email, text messaging, social networks or any other electronic source), in person, through a third party 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.
13. Placement of Judicial Hold on Student account: A Judicial Hold prohibits the Student from registering for classes, sending and receiving transcripts and conducting most forms of business with the University. Holds are intended to be used with a time limit determined by the Dean of Students, Coordinator for Conduct and Community Standards, or other designee except in the case of expulsion when the Judicial Hold will be placed with no date of termination.
14. Restitution: The Student or Recognized Student Organization must replace, restore, or pay for damaged, stolen, or misappropriated property.
15. Revocation of Admission to the University: The University may revoke admission to the University if a Student is found to have provided false or deceptive information on an admission application or other materials for admission (e.g. transcript from another university).
16. Suspension: The Student or Student Organization 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 Student Organization, the group may not function as a recognized group for a specific period of time that can include conditions that must be met prior to reinstatement.

17. 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 a Member of the University Community, to the Student, or to the educational processes of the University, the Vice President for Student Affairs will review that evidence and may suspend the Student immediately pending a hearing. The hearing must occur within two-three Working Days. 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.
18. Warning: The Student or Recognized Student Organization is given written or verbal warning that the behavior violated specified University regulations or policies and is advised that further violations may result in the assigning of more severe sanctions.
19. 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 Adjudication and sanctions being assigned to the Student. Appeals of sanctions can be made through the appeal process.

Section 2: Student Conduct Structure

I. Introduction

1. Western Oregon University's Campus Student Conduct Program holds the education of the Student at its philosophical heart. This educational philosophy defines a structure for the Student Conduct Program which gives the Respondent 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 Dean of Students, Coordinator for Conduct and Community Standards or designee, and Hearing with the Committee.
3. Written correspondence with Complainants and Respondents will generally be electronic.
4. The Respondent meets with the Dean of Students, Coordinator for Conduct and community Standards or designee, who in turn helps direct the Student to the proper arena for resolution of the allegation(s). The Respondent 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 types of hearings, except for Mediation, will have equal jurisdiction and ability to assign sanctions.

II. Student Conduct Personnel

1. The Dean of Students has primary responsibility for administering the Campus Student Conduct Program, which includes selecting personnel to serve within the Office of Student Conduct. The duties of the Office of Student Conduct will include, but not be limited to:
 - a. Meeting with the Respondent to explain the 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 Mediation;
 - D. Hearing the allegation(s); or
 - E. Referring the allegation(s) to the 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 Committee, managing Committee hearings, and protecting the rights of the Respondent, the Victim(s), and the Complainant(s);
 - f. Advising University officials and any Hearing Committees formed on the Campus;
 - g. Reporting statistics to Campus Public Safety for the Campus Security Act; and
 - h. Maintaining records pertaining to the activities of the Campus Student Conduct Program and providing the Vice President for Student Affairs with quarterly and annual reports of all cases heard by mediators, the Dean of Students, Coordinator for Conduct and Community Standards or designee, and the Committee. These reports will include information on the hearing authority, the nature of the violations, and the sanctions assigned.

III. Student Conduct Committee

1. Upon the recommendation of the Dean of Students, the Vice President for Student Affairs approves the members of the Committee which consist of no fewer than three Faculty

members, three professional unclassified Staff members, 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. Term of membership may be extended for Faculty and Staff members at the discretion of the Office of Student Conduct. Student members serve for one year with the option to renew membership at the discretion of the Office of Student Conduct until the Student graduates from the University.

2. The Office of Student Conduct solicits nominations for Faculty appointments from the Department or Division Chairs and the Faculty Senate President. The selection process, which includes interviews, will be completed by the end of each Spring term to fill whatever Faculty vacancies exist.
3. The Office of Student Conduct solicits nominations for Staff members from Academic, Administrative, and Student Affairs departments. The selection process, which includes interviews, will be completed by the end of each Spring term to fill whatever Staff vacancies exist.
4. The Dean of Students may nominate a Faculty or Staff member to emeritus status when they leave their rotation. This status recognizes outstanding service to the Committee by a member. Members of this standing could still participate in Committee hearings, business meetings and social events, but would not be required to participate. Members 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 Vice President of Student Affairs of the University.
5. The Office of Student Conduct solicits nominations for Student appointments by the end of Spring term from the Residence Hall Association (RHA), the Associated Students of Western Oregon University (ASWOU), and the Vice President for Student Affairs. Each organization and the Vice President submit to the Office of Student Conduct a list of Student nominees. The Office of Student Conduct interviews all nominees and then selects Students for the Committee. Ideally, a balanced number of Students from on- and off-Campus should represent membership on the Committee. If the Office of Student Conduct does not receive nominations by the end of Spring term, they may, with the approval of the Vice President for Student Affairs, follow a different procedure for selecting Student Committee members. Mid-year vacancies on the Committee will be filled through a brief nomination and interview process conducted by the Office of Student Conduct.
6. The Office of Student Conduct convenes the Committee prior to or at the beginning of 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 Committee.
7. The Committee reviews and recommends to the Vice President for Student Affairs and the Vice President & General Counsel appropriate changes to the Code. However, the Vice President for Student Affairs, the Office of Student Conduct or any other Campus

individual or group may also recommend changes at any time. The Office of Student Conduct coordinates proposed changes with appropriate Campus groups and notifies 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.

IV. 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 in all cases except cases involving sexual misconduct, domestic violence, intimate partner violence, sexual harassment, and stalking. Selection of sub-committee members for each Hearing Sub-Committee is made by the Office of Student Conduct. 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 Respondent waives the requirement for a quorum in writing.

In cases involving sexual misconduct, domestic violence, interpersonal violence, intimate partner violence, sexual harassment, and stalking, the sub-committee will consist of Faculty or Staff members. Selection of the sub-committee members for these types of hearings will be made by the Office of Student Conduct. A minimum of two Faculty or Staff members is required for quorum. If a quorum cannot be obtained, a hearing will be postponed until a quorum is present, unless the Respondent waives the requirement for a quorum in writing.

V. Delegation of Authority

1. Subject to the approval of the Vice President for Student Affairs, the Committee recognizes the University Housing Student Conduct System and grants University Housing authority to:
 - a. Formulate regulations governing the conduct of residential Students in and around University operated residences;
 - b. Formulate procedures and administrative practices to be followed by the University Housing Student Conduct Board;
 - c. Assign sanctions exclusive of expulsion, suspension, or negative notation on transcript, appropriate to the enforcement of Campus residence hall regulations.
2. Students, Recognized Student Organizations and Greek Organizations may appeal decisions of the University Residential Conduct Board to the Dean of Students or Coordinator for Conduct and Community Standards. The Student or Recognized Student Organization must file the appeal with Student Conduct within five Working Days after receiving the sanction notice from the University Housing Student Conduct Board. The University Housing Student Conduct Board Chairperson will submit to the Office of

Student Conduct a copy of the appealing Student's or Recognized Student Organization's conduct file for each case heard by the University Housing Student Conduct 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.

Section 3: Student Conduct Procedures

I. Complaint

1. The Adjudication process at Western Oregon University begins with the receipt of one of the following by the Office of Student Conduct:
 - a. A Campus Public Safety or University Housing incident report;
 - b. Any other type of University reporting document or complaint;
 - 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 Office of Student Conduct 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. The Dean of Students, Coordinator for Conduct and Community Standards or designee 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 from when the Office of Student Conduct determines that there is sufficient basis to charge the Student named in the complaint or report, the Office of Student Conduct will send the Respondent correspondence electronically that includes the following:
 - a. A notice for the Student to meet with the Dean of Students, Coordinator for Conduct and Community Standards or designee for a pre-hearing meeting;
 - b. The alleged violations of the Code;
 - c. The Student's basic rights granted by the Code, including the right to have the case heard by the Committee if sanctions of suspension, expulsion, or negative notation on the transcript could result;
 - d. Notice that a copy of the Code can be found online at www.wou.edu/studentconduct or at the Office of Student Conduct.

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

II. Pre-hearing Meeting with Student Conduct

The purpose of a pre-hearing meeting with the Office of Student Conduct is to explain the conduct procedures to the Respondent and to select the proper hearing body to resolve the allegations. The Respondent may at this meeting request that the pre-hearing meeting serve as an actual hearing, thereby waiving the Respondent's right to five Working Days' written notice prior to a hearing, and, in cases where suspension, expulsion, or negative notation may result, waiving the Respondent's right to a Committee hearing. If the Respondent does not wish the pre-hearing meeting to be treated as the actual hearing, a hearing will be scheduled with the hearing body the Respondent has chosen at a time that gives the Respondent at least five Working Days' notice prior to the hearing. If the Student does not appear for a pre-hearing meeting, the Office of Student Conduct will set a time and place for a hearing. If the case has been determined by the Office of Student Conduct to possibly result in suspension, expulsion, or negative notation on the transcript, a Committee hearing will be scheduled. In all other cases, the Office of Student Conduct will set an informal hearing. The time between the Student's receipt of the notice and the hearing date must be at least five Working Days. The Office of Student Conduct will notify the Respondent that there is an option to waive the hearing before the Committee and elect to have the case heard by the Office of Student Conduct if such a hearing has been set.

III. Types of Hearings

All Adjudications at Western Oregon University will base their decisions on a Preponderance of the Evidence and a Reasonable Person Standard.

IV. Hearing with the Dean of Students, Coordinator for Conduct and Community Standards, or designee

1. The purpose of a hearing with the Dean of Students, Coordinator for Conduct and Community Standards or designee is to:
 - a. Consider information presented by the Respondent, 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 Dean of Students, Coordinator for Conduct and Community Standards or designee has authority to levy sanctions deemed appropriate under this Code (see Student Conduct Personnel Section 1(c)) or can refer the Student and case to the Hearing Sub-Committee without action.

2. For all hearings with the Dean of Students, Coordinator for Conduct and Community Standards or designee, the Respondent has the following rights:
 - a. To have access to the complaint file to the extent permitted by law after giving the Office of Student Conduct sufficient notice to purge the file of information within the file considered to be the education record of another Student(s);
 - b. To have knowledge of the charges and the names of those providing information supporting the charges, including all Witnesses;
 - c. To offer evidence challenging the statements of those providing information regarding the charges and all Witnesses;
 - d. To be notified in writing of the outcome of the hearing within five Working Days;
 - e. To request a hearing with the Committee; and
 - f. To appeal to the appropriate University official/body as defined in the appeal process (see Appeal of Hearing).

V. Hearing with the Hearing Sub-Committee

The Hearing Sub-Committee will be convened when requested by the Office of Student Conduct or the Respondent. The Dean of Students, Coordinator for Conduct and Community Standards or designee will present information pertinent to the case, which may include past conduct history of the Respondent that is relevant to the case. The Dean of Students, Coordinator for Conduct and Community Standards or designee, when appropriate, may present Witnesses for both the Respondent and the Complainant, as requested by the Hearing Sub-Committee.

1. For all hearings with the Hearing Sub-Committee, the Respondent has the following rights:
 - a. Five Working Days' notice prior to the hearing, unless the Student waives this right in writing;
 - b. To have knowledge of the charges and of Witnesses;
 - c. To have an Advisor attend the hearing with the Respondent. The Advisor cannot speak for or represent the Respondent. Failure of the Advisor to comply with this stipulation will result in the removal of the Advisor from the proceeding by the Hearing Sub-Committee chairperson. The hearing will not be postponed due to the inability of the Advisor to attend;
 - d. To challenge the statements of the Complainant(s) or Victim(s) and Witnesses;
 - e. To have advance notification of the hearing process and procedures through the mail or in a meeting with the Dean of Students, Coordinator for Conduct and Community

Standards or designee. This meeting with the Dean of Students, Coordinator for Conduct and Community Standards or designee 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 oneself;
 - g. To remain silent during a hearing, and not have that silence used against oneself;
 - h. To be notified in writing of the outcome of the hearing within five Working Days; and
 - i. To appeal to a University official as defined in the Appeal section of this Code.
2. The Respondent may present information and challenge the statements of Complainants, Witnesses, and statements read during the hearing.
 3. The members of the Hearing Sub-Committee may question the Respondent, 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. During deliberations to resolve allegations, only the Hearing Sub-Committee members are present. The Dean of Students or Coordinator for Conduct and Community Standards may be summoned to advise the Hearing Sub-Committee during certain parts of deliberations concerning policy, procedure, rules, or other relevant areas.
 4. The findings will be announced to the Respondent following deliberations and, at that time, the Dean of Students, Coordinator for Conduct and Community Standards or designee will present information concerning the Respondent's academic record and any previous conduct record. The Respondent may also present information relevant to previous academic and Student Conduct history, as well as circumstances which may have a bearing on possible sanctions.
 5. During deliberations of sanctions, only the Hearing Sub-Committee members are present. The Dean of Students or Coordinator for Conduct and Community Standards may be summoned to advise the Hearing Sub-Committee concerning policy, procedure, rules, or other relevant areas. Following that determination, the Chair of the Committee will announce, with the Respondent present, the sanctions the Hearing Sub-Committee assigned.
 6. The Office of Student Conduct will confirm in writing to the Respondent the results of the hearing within five Working Days.

VI. Procedures when Respondent Fails to Appear at Hearing

When the Respondent 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 Respondent not present. The results of the hearing will indicate that the hearing was held with the Respondent

in absentia. The Respondent'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.

VII. Appeal of Hearing

1. The Respondent may appeal decisions reached at a hearing. The appeal must be filed within five Working Days 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 Student Conduct. An appeal form must include specific justification for the appeal as listed in (3) below.
2. In hearings involving a Survivor of sexual harassment or sexual misconduct, the Survivor may appeal decisions reached at a hearing to the Vice President for Student Affairs if the Survivor believes the decision is not in compliance with University standards. The appeal must be filed within five Working Days following the date the Survivor receives notice of the hearing results. An appeal form must include specific justification for the appeal as listed in (3) below.
3. Except as required to explain the basis of new information, 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. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results;
 - b. To determine whether the decision reached regarding the Respondent was based on a Preponderance of the Evidence;
 - c. To determine whether the sanction(s) imposed were appropriate to the Respondent's previous conduct history and to the present violation(s) of the Code; 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 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 described in (5) below:
 - 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, 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 Hearing Sub-Committee and appeals of hearings with the Dean of Students, Coordinator for Conduct and Community Standards or designee;
 - b. The Dean of Students will hear appeals of hearings with the University Residential Conduct Board and Resident Directors;
 - c. Upon receipt of the appeal, the Appeals Body may suspend any or all sanctions pending its decision;
 - d. The Appeals Body must consider the appeal based on the record, with no new evidence considered, except new evidence that meets the requirements of subsection (3)(d) above. If new evidence becomes available, the Appeals Body must remand the case to a new hearing with the original hearing body. The Office of Student Conduct 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 person appealing the decision; and
 - e. Within ten Working Days following receipt of the appeal, the Appeals Body will notify the Student submitting the appeal in writing of the results of the appeal.
 - f. A Respondent and Complainant are allowed one route of appeal.

VII. Hearing with Mediators

The Campus Student Conduct Program at Western Oregon University places confidence in the process of Mediation as a preventative and educational method of intervention for Student misconduct. When the Campus Student Conduct Program makes use of Mediation it does so with the primary goal of diverting Students from the Adjudicative and, in some cases, adversarial hearing process. The anticipated outcome of this action is for Disputants to voluntarily create a resolution to their conflict that is confidential and non-binding. The Campus Student Conduct Program is primarily an Adjudicative process which often must address allegations that a Respondent'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, with the exception of sexual misconduct cases. 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 Respondent may not be voluntary, the mediated agreement may not be confidential, and the mediated agreement may become binding for the Respondent.

- 1. Uses:

- a. Use of Mediation in the Absence of Charges. Disputants not charged with a violation of the Code 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 Student Conduct. This includes Victim/offender Mediation in which the Victim declines to file a complaint and the Office of Student Conduct does not pursue the allegations;
 - b. Use of Mediation after a Complaint is made. When a Victim files a complaint with the Office of Student Conduct alleging that the behavior of a Respondent harmed a person, or when 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 Respondent agree to such Mediation. In cases involving sexual misconduct or sexual harassment, Mediation is not an option. All charges are suspended pending the outcome of the Mediation. The Victim has the right to return the complaint to the Office of Student Conduct for a formal conduct review if the Victim is not satisfied with the outcome of Mediation;
 - c. Respondent and Victim Choose Mediation. When a Respondent has been found in violation of any section of the Code where that Respondent's behavior victimized or harmed another Member(s) of the University Community, Victim/offender Mediation may be assigned as a sanction, except in cases involving sexual misconduct or sexual harassment.
2. Mediation Procedures. A Respondent(s) may request to use Mediation at any time during the Adjudication process (with the exception of sexual misconduct or sexual harassment cases). 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/Respondent, Voluntary Mediation:
 - A. Mediation between a Victim and a Respondent 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 Office of Student Conduct may offer Mediation to a Respondent 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 Office of Student Conduct 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 Respondent's judicial file. The Respondent must adhere to the agreement or face possible future Adjudicative action;

- E. The Victim may, at any time, withdraw permission for a binding agreement or withdraw the complaint. In this case, the Mediation becomes confidential and non-binding;
 - F. The Victim may, at any time, withdraw the complaint and withdraw from the Mediation process;
 - G. The Respondent may, at any time, withdraw from the Mediation process. Such action by the Respondent, however, may return the original charges to the Adjudicative process;
 - H. If the Victim reports dissatisfaction with the outcome of the Mediation the Victim may return the complaint to the Adjudicative process for a Student conduct hearing; and
 - I. The Office of Student Conduct will, in most cases, honor the Victim's request to withdraw the complaint from the Adjudicative process. The Office of Student Conduct may, however, Adjudicate charges whenever it is determined that it is in the best interest of the University community to do so.
- b. Mandated participation in Mediation may be assigned to the Student in Violation as a sanction when charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the Adjudicative process (except for sexual harassment and sexual misconduct cases). When Mediation is used as a sanction, the following will apply:
- A. The Victim must agree to such a sanction in advance;
 - B. The Student in Violation must verify that Mediation was attempted 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 Office of Student Conduct. This agreement will serve as a part of the sanction which the Student in Violation must complete. Failure to abide by the agreement may result in the Student in Violation 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 for the same event, the Office of Student Conduct may offer, or the Students may request, to use Mediation as a diversion from the Adjudicative process. The Dean of Students, Coordinator for Conduct and Community Standards or designee 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 agree to fully participate in Mediation,
 - v. The Students agree to share the results of the Mediation with the Office of Student Conduct, and
 - vi. The mediated agreement becomes binding and must be adhered to by both parties as a sanction unless otherwise indicated by the Office of Student Conduct.
- B. The Office of Student Conduct 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 themselves or others; or
 - iii. One or more of the Students fails to adhere to the agreement.

VIII. Rights of Complainants, Victims and Survivors

A fundamental aspect of the Code is to provide procedures that ensure the rights of the Respondent. However, the University also recognizes that the Complainants of misconduct should also have rights. Therefore, the following rights of Complainants must be guaranteed during Adjudication proceedings conducted by the University.

1. A Complainant has the right to be identified as a Witness and provide a Witness statement.
2. A Complainant has the right to have a person accompany the Complainant while in attendance at the hearing
3. Unless it bears directly on the charges, a Complainant has the right not to have the Complainant's past history or behavior discussed during a hearing. This includes reference to past violations of the Code, past sexual history, and past indiscretions of any type.
4. A Complainant has the right to make an impact statement only when the Respondent's alleged behavior against the Complainant is upheld. The impact statement may only be used or considered for sanctioning purposes.
5. A Complainant has the right to be shielded from face to face contact with the Respondent.

6. A Complainant has the right to be kept informed during the Adjudicative process within legal guidelines; and
7. A Complainant has the right to be informed immediately of the outcome of a hearing within legal guidelines.
8. In hearings involving a Complainant, the Complainant may appeal decisions reached at a hearing to the Vice President for Student Affairs if the Complainant, believes the decision is not in compliance with University standards.

IX. Revising and Interpreting the Code of Student Responsibility

1. Refer all questions concerning the Code to the Office of Student Conduct. The Dean of Students is the final interpreter of the Code.
2. The Code will be reviewed no less than once every five years under the direction of the Dean of Students.
3. A formal, written request to review the Code may be submitted to the Office of Student Conduct.