

# Formal Student Conduct Process

Every member of the University of Oregon has the right to expect an academic and working environment that is safe and free of harassment and discrimination.

The Office of Investigations and Civil Rights Compliance/Title IX Coordinator and the Office of Student Conduct and Community Standards strive to provide a fair, balanced, and equitable resolution process for both complainants and respondents.

An investigation is a formal or informal administrative process, not a civil or criminal proceeding. **[Employee Grievance Processes: Information regarding the formal processes for complaints against employees may be [found here.](#)]**

*Below are the Standard Operating Procedures cases at a glance. Please click on the applicable section for further detail related to each topic.*

## Student Conduct Process: Standard Operating Procedures for Prohibited Discrimination or Harassment Allegations

The University of Oregon (“University”) will not tolerate prohibited discrimination or harassment in any form. To make a formal complaint, please visit the [Make a Formal Complaint page](#) or [https://cm.maxient.com/reportingform.php?UnivofOregon&layout\\_id=1](https://cm.maxient.com/reportingform.php?UnivofOregon&layout_id=1)

The Director of Student Conduct and Community Standards has developed these procedures to implement the Student Conduct Code (“Code”) as it relates to allegations of prohibited discrimination and harassment (including sexual misconduct and unwanted contact).

## Section A: General Information about the SOPs

### Who do these procedures apply to and for what cases?

**Scope of Procedures:** These procedures apply to complaints involving prohibited discrimination or harassment based on protected class when the Respondent is a University of Oregon student, and when parties received Notice of Allegations on or after November 1, 2018. Cases involving allegations of sexual misconduct in which Notice was provided prior to this date are subject to the previous procedures (available upon request from the Title IX Coordinator at [titleixcoordinator@uoregon.edu](mailto:titleixcoordinator@uoregon.edu)), unless the Director of Student Conduct and Title IX Coordinator determine that there is good cause to use the new procedures and using the new procedures will not result in substantial prejudice to either party. Appeals are subject to the process for appeals described in the [Student Conduct Code](#) and in [Section G](#).

These procedures are intended to provide a fair, ample and equal opportunity for each party involved to provide information, test the information provided and be heard in front of a trained, neutral Administrator.

These procedures should be construed as consistent with applicable Student Conduct Code sections. If there is a conflict between the Code and these procedures, the Code controls. These procedures shall be interpreted and applied consistently with the Violence Against Women Act, Title IX, their [implementing regulations](#) and relevant agency guidance, and other controlling state and federal law.

These procedures are generally followed when the underlying allegations relate to any form of prohibited discrimination or harassment, including sexual harassment, sexual assault, dating or domestic violence, gender-based harassment and bullying, stalking and any other conduct that, if true, implicates Title IX (Sexual Misconduct).

### What about cases where there is also a criminal investigation?

See: About [Concurrent Criminal and Administrative Processes](#)

### Where can I find definitions for the terms used in these SOPs?

See: [Glossary of Key Terms \(as used in these SOPs\)](#): Key terms used in the SOPs are defined in the Glossary of Key Terms which links to the Student Conduct Code, and University Policies including V.11.02. Those definitions are incorporated into these SOPs.

The terms “Director of Student Conduct” or “Director” throughout refer to both the Director as well as the Director’s designees, including the Conduct Administrator assigned to investigate the allegations of prohibited discrimination and harassment.

The term “Title IX Coordinator” throughout refers to the Title IX Coordinator as well as the Title IX Coordinator’s designees.

## Can I request an exception to these SOPs?

Requesting Exceptions to the Overall SOPs: Participants may request exceptions to these procedures by submitting a request to the Director of Student Conduct. In order to be considered, requests must provide a brief written statement regarding the reason for the exception and be received by a date that gives the Director a reasonable amount of time to consider the request. In consultation with the Title IX Coordinator, the Director will make a decision as to whether to grant an exception.

## Where can I find an accessible version of these?

The University wants to ensure that all individuals have the full ability to access and participate in the processes outlined in this document. Individuals who require reasonable accommodations to ensure full access and participation should direct requests to the Accessible Education Center at 541-346-1155.

## Can I request interpretation or translation services?

Students who wish to request language interpretation or translation services should notify the Director of Student Conduct or the Conduct Administrator of the request as soon as possible during the process.

## What information/records can I see and when?

As a UO student, a party to the student conduct sexual misconduct process and/or a member of the public, you have the right to see certain documents at certain times. Those rights are described below in more detail.

**As a UO Student:** You can request to see your education records at any time.

- How to make the request? You can make a request to review your education records by contacting the registrar’s office. Please review the [Student Records Privacy Policy](#) for more information regarding your education records.

- When you will be able to see the records? You will be to see the records within 45 business days of the date you make the request.
- What records can I see? You can review records relating to you which are maintained or kept by the university. Your records, however, will be redacted to protect the privacy interests of other students or employees.

**As a Party to the Student Conduct Process:** You will see records during the process [as outlined in the SOPs](#).

- How to make the request? You do not need to request to see the records as part of the process.
- When will you be able to see the records? You will be able to review information that is relevant during the initial interview, during follow up interviews and in the Reports provided.
- What records can I see? You will be able to see and respond to all of the information that is determined to be relevant to the investigation and that may be relied upon in making a decision.

**As a Member of the Public:** You can make a public records request.

- How to make the request? You can make a public records request by contacting the public records office at [pubrec@uoregon.edu](mailto:pubrec@uoregon.edu). Please visit the [public record's website](#) for more information.
- When will you be able to see the records? The public records office will provide you with documents within a reasonable time.
- What records can I see? You can see those public records responsive to your request that do not fall within a public records exception. Common exceptions include education records covered by FERPA, internal advisory communications, and documents that infringe on someone's personal privacy.

## Section B: Glossary of Key Terms (as used in these SOPs)

**Terms that are defined in the Student Conduct Code or other University policy are included below, and linked to the originating document.**

**“Advisor”** – One person selected by the Complainant or Respondent to help the Complainant or Respondent understand and navigate the formal investigative process.

**“Coercion”** – Coercion is the use of an unreasonable amount of pressure to gain sexual access. It is more than an effort to persuade, entice, or attract another person to have sex. An evaluation as to whether pressure for sexual access rises to the level of coercion should take into consideration: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure. A finding of coercion also generally involves either the use of physical force, or the threat of harm. Harm can include, but is not limited to physical harm, harm to social relationships or reputation, financial harm, harm to terms and conditions of employment or academic situation, or other types of leverage created from the explicit or implicit threat of harm.

**“Complainant”** – the person(s) alleging by formal complaint that they were subjected to the harassment or discrimination.

**“Conduct Administrator/Investigator”** – A trained and impartial university representative designated to investigate allegations of harassment or discrimination (e.g. gather relevant information and conduct interviews) and make a decision regarding responsibility for a violation based upon a preponderance of the evidence (what more likely occurred based on the information available).

**“Contacting”** – has its common meaning. It includes, but is not limited to, communicating with or remaining in the physical presence of the other person.

**“Contact of a sexual nature”** – for purposes of Sexual Misconduct in the Student Conduct Code means: intentionally touching part of another person’s body that, under the circumstances, a reasonable person would know that the other person regards as an intimate part, including but not limited to the other person’s genitals, breasts, groin, or buttocks, without the consent of the other person; intentionally causing a person to touch an intimate part of another person; or, intentionally causing a person to touch their own intimate part. For this definition, “touching” includes contact made with bodily fluids.

**“Day”** - The word “day” in these standard operating procedures means “business day”, Monday through Friday between 8:00am and 6:00pm, excluding holidays, unless specified otherwise.

When a deadline or due date falls on a weekend or holiday, the deadline or due date will be considered to be the following business day.

**"Director"** – Director and Director of Student Conduct and Community Standards throughout refer to both the Director as well as their designee, including the Conduct Administrator assigned to investigate allegations of prohibited discrimination and harassment.

**"Disclosure"** – Information disclosed by a student or employee to anyone affiliated with the University regarding an experience of sex or gender-based discrimination, harassment or violence. This does not necessarily constitute a report to the University.

**"Explicit Consent"** – For purposes of Sexual Misconduct in the Student Conduct Code means voluntary, non-coerced and clear communication indicating a willingness to engage in a particular act. "Explicit consent" includes an affirmative verbal response or voluntary acts unmistakable in their meaning.

**"Failure to Comply"** – If a student or other participant in the Formal Process acting on behalf of the student (e.g. an advisor, private investigator) fails to comply with the procedures set forth in this policy and procedure, including a breach of the privacy requirements set forth in Section C(II)(3), the University reserves the right to terminate the Formal Process and use an alternative means to resolve the allegations, and/or to exclude a participant from further participation in the Formal Process. The Title IX Coordinator and/or the Director are responsible for interpreting this provision. The Formal Process will not be terminated nor will a participant be excluded without providing advance written notice and affording an opportunity to respond in writing. Nothing in this section is intended to remove the University's obligation to end the harassment, prevent its recurrence and remedy its effects. This section shall not impact a student's rights under controlling state or federal law.

**"Force"** – Force is determined by looking at whether there was any physical force/violence, threats, intimidation and/or coercion that may have made an individual do something they would not have otherwise done. If an individual used force to obtain sexual access, they did not obtain explicit consent. This can include "Physical Force."

**"Harassment"** – as defined under the Student Conduct Code means:

1. Intentionally subjecting a person to offensive physical contact;
2. Unreasonable insults, gestures, or abusive words, in the immediate presence, and directed to, another person that may reasonably cause emotional distress or provoke a violent response (including but not limited to electronic mail, conventional mail, social media and telephone) except to the extent such insults, gestures or abusive words are protected expression; or
3. The University's policy prohibiting sexual harassment specifically prohibits discrimination on the basis of sex or gender, sexual harassment, sexual violence, sexual assault, dating or domestic violence, sex or gender-based stalking or bullying, and other

gendered harassment. “Harassment” as defined under the Student Conduct Code will be interpreted to include sexual harassment as defined by the university’s discrimination complaint and response policy. Sexual harassment and sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation, and/or gender identify of those involved.

Other types of prohibited discrimination, discriminatory harassment, and sexual harassment as defined by law.

**“Honest Participation”** – All participants and witnesses in this process are obligated to be honest and forthright throughout the process. Any participant or witness who knowingly makes a false statement in connection with the investigation and resolution of the allegations may be subject to disciplinary action. False statements include statements that omit a material fact as well as statements made that the speaker knows to be untrue.

**“Incapacitation”**— Incapacitation is any state in which a person does not have the capacity to consent to a particular act. Incapacitation can be mental or physical, and can be the result of a permanent condition or can result from a temporary condition such as extreme intoxication from alcohol or other drugs. Drug or alcohol induced incapacitation is a state beyond intoxication in which an individual lacks the capacity to give knowing consent to sexual activity. Consumption of alcohol or drugs is not by itself sufficient to establish incapacitation. Therefore, each incident will be assessed on a case-by-case basis.

**“Mental Incapacitation”** - is established by determining whether the individual was able to meaningfully comprehend the following factors:

- Who they are.
- Who the other individual(s) involved in a sexual activity are, and their preexisting relationship (if any) with those individuals.
- Where they are.
- What the possible outcomes, both positive and negative, of engaging in sexual activity with the other individuals might be.
- The general likeliness of each possible outcome.
- Whether the individual was able to make a rational, reasonable decision to engage in sexual activity.

Some indications of drug and alcohol induced incapacitation include (but are not limited to):

- Inability to speak coherently.
- Inability to walk unassisted.
- Vomiting.
- Glassy or bloodshot eyes.
- Inability to keep eyes open.
- Extremely unusual or outlandish behavior.
- Confusion or lack of understanding of basic facts.
- Disorientation to place, time and/or location.
- “Blackout” or “Brownouts” resulting in complete or partial loss of memory.
- Unconsciousness.

These signs alone (with the exception of unconsciousness) do not necessarily indicate mental incapacitation. The above factors can help to establish incapacitation by providing insight into a person’s capacity to provide knowing consent at the time sexual activity occurred. In some circumstances, a person in a blackout state can appear to be conscious when they are actually incapacitated and unable to consent, although the presence of a blackout or brownout alone is not sufficient to establish incapacitation.

**“Physical Incapacitation”** - can be caused by drug or alcohol consumption, but can also be caused by medical conditions, disability, or other causes. Physical incapacitation assessed through evidence of a person’s ability to control their physical movement at the time a sexual activity occurred. Engaging in sexual activity with someone a person knew or should have known was incapacitated is a violation of the Student Conduct Code regardless of whether the person appeared to be a willing participant. Whether a person should have known that another was incapacitated is established by whether a similarly situated, sober, reasonable person would have known the person was incapacitated. It is the responsibility of any individual who wants to engage in sexual activity to make sure that the other individual(s) involved is able to consent. Failure to do so could lead to disciplinary and/or legal action.

**“Intimidation”** – To force into or deter from some action by inducing fear.

**“Notification/Notice”** – Unless otherwise noted in these SOPs, the official method of communication with all students and witnesses or other involved individuals is by University



email. All students and employees of the University are expected to check their email and are responsible for the understanding the content of those emails. Once a communication has been sent to a student or employee's University email, then the University considers that person to have received notice of the communication.

If an involved individual does not have a University email, then the individual will receive communications through an identified preferred method such as phone call, other email, first-class mail etc.

**“Party” or “Participant”**– any individual or group identified as a Complainant, Non-Participating Complainant Respondent, Witness or other participant in the formal process.

**“Penetration”** – for purposes of Sexual Misconduct in the Student Conduct Code means any degree of insertion, however slight, by any body part or object into the oral, anal, or vaginal parts of a person.

**“Physical Force”** – Power, violence, or pressure directed against an individual consisting in a physical act.

**“Physical Helplessness”** – for purposes of Sexual Misconduct in the Student Conduct Code means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to engage in an act

**“Prohibited Discrimination”** – Any act that either in form or operation, and whether intended or unintended, unreasonably discriminates among individuals on the basis of age, race, color, ancestry, national or ethnic origin, religion, service in the uniformed services (as defined in state and federal law), veteran status, sex, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions, disability, gender, perceived gender, gender identity, genetic information or the use of leave protected by state or federal law. “Unintended discrimination” is a concept applicable only to situations where a policy, requirement, or regularized practice, although neutral on its face, can be shown to have disparately impacted members of a protected class. The concept is inapplicable to sexual or other forms of harassment, which, by definition, result from volitional actions.

**“Relevant Information”** – These procedures require students and witnesses to comply with requests by the Administrator for information that the Administrator has determined are potentially relevant to allegations. Relevant information means any information the student or witness may have observed, heard, seen or otherwise has direct or indirect knowledge of, and includes materials such as emails, text messages, phone records, snapshots, social media posts, written documents, photos, receipts, records, notes, or any other type of documentation. Relevance is determined by the Administrator.

**“Report”** – Information received officially by the University from a Designated Reporter or Student Directed Employee (at the request of the student or upon assessment that an imminent

threat of harm exists), or from a student directly, or from any other source that gives the University actual knowledge that prohibited discrimination or harassment may be occurring.

**“Respondent”** – The person(s) against whom the complaint is filed.

**“Retaliation”** – Retaliation is not permitted under University policy or law. Retaliation is defined by the University’s complaint and response policy:

Any act of retaliation against any individual participating in any part of this process may subject the individual engaging in retaliation to further disciplinary procedures including conduct charges for a failure to comply or disruption of University processes. Examples of retaliation include but are not limited to:

- Discouraging an individual from reporting an incident or filing a complaint;
- Discouraging a witness from participating in this process;
- Threatening, intimidating, or harassing a participant in an investigation;
- Intentionally causing negative consequences for a participant in an investigation;
- Spreading rumors or other actions that cause damage to a participant’s personal relationships;
- Not allowing an individual or encouraging others to not allow an individual to participate in usual activities because of their participation in an investigation;
- Retaliation also includes causing or encouraging a third party to engage in retaliatory behavior.

Any act of retaliation should be reported immediately to the Title IX Coordinator or the Director.

**“Sexual Harassment”** – Sexual Harassment is a type of sex discrimination which is defined as any sexual advance, any request for sexual favors, or other verbal or physical conduct of a sexual nature when:

Submission to such advances, requests, or conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic experience or participation in any university program or activity;

Submission to or rejection of such advances, requests, or conduct by an individual is used as a basis or condition for employment, participation in any university program or activity or academic experience; or

Such conduct is unwelcome and sufficiently severe or pervasive that it interferes with work, participation in any university program or activity and/or academic experience because it creates an intimidating, hostile, or offensive working, university or academic environment for the individual who is the subject of such conduct, and where the conduct would have such an effect on a reasonable person who is similarly situated.

Sexual harassment includes sex and gender-based stalking, sex and gender-based harassment and bullying, dating violence, and domestic violence, as defined as follows:

**“Sex and gender based stalking”** – occurs when, based on a person’s sex or gender: (1) a person knowingly alarms or coerces another person or a member of that person’s immediate family or household by engaging in repeated and unwanted contact with the other person; (2) it is objectively reasonable for a person in the complainant’s situation to have been alarmed or coerced by the contact; and (3) the repeated and unwanted contact causes the complainant reasonable apprehension regarding the personal safety of the complainant or a member of the complainant’s immediate family or household.

**“Sex and gender-based harassment and bullying”** – means any act that: (1) Substantially interferes with work or academic performance; (2) Has the effect of: a. Physically harming a student or employee or damaging their property; b. Knowingly placing a person in reasonable fear of physical harm to the person or damages the person’s property; or c. Creating a hostile environment, including interfering with the psychological well-being of a person; and (3) May be based on, but not be limited to, the sex, sexual orientation, or gender identity of the person. Gender-based harassment and bullying includes cyberbullying, which means the use of any electronic communication device to perform gender-based harassment or bullying.

**“Dating Violence”** – means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship. For the purpose of this definition: (1) Dating violence includes, but is not limited to, causing or attempting to cause sexual or physical abuse, placing another in fear of imminent sexual or physical abuse or the threat of such abuse; and (2) Dating violence does not include acts covered under the definition of Domestic Violence.

**“Domestic Violence”** – means violence between family or household members. Family or household members means: Spouses or former spouses; adults related by blood, marriage or adoption; persons cohabitating or who have cohabitated; persons in a past or present sexually intimate relationship; unmarried parents of a child. Abuse means: The occurrence of one or more of the following acts within a domestic or dating relationship: a. Attempting to cause or intentionally, knowingly or recklessly causing bodily injury. b. Intentionally, knowingly or

recklessly placing another in fear of imminent bodily injury. c. Causing another to engage in involuntary sexual relations by force or threat of force.

**"Sexual Misconduct"** –

1. Unwanted Penetration is Penetration of another person, or causing the Penetration of another person, when one:
2. Does not first obtain Explicit Consent from that person; or
3. Knows or should have known the person was incapable of explicit consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.
4. Nonconsensual personal contact occurs when a student subjects another person to contact of a sexual nature when a reasonable person would know that such contact would cause emotional distress:
5. Without having first obtained Explicit Consent; or
6. When he or she knows or should have known the person was incapable of explicit consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.
7. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome and sufficiently severe or pervasive that interferes with work or access to educational benefits and opportunities because it has created an intimidating, hostile, or degrading environment and would have such an effect on a reasonable person of the alleged complainant's status.
8. A single episode of behavior that meets a., b., or c. can be sufficient for a finding of sexual misconduct.

**"Student"** – Any person with student status as defined in the Student Conduct Code Section IV.

**"Threat"** – A statement of an intention to inflict pain, injury, damage, or other hostile action on someone in retribution for something done or not done.

**"Unwanted Contact"** – Repeated or persistent contact or attempts to contact another person when the contacting person knows or should know that the contact is unwanted by the other person; and

1. The contact would cause a reasonable person fear of physical harm; or

2. The contacting person knows or should know that the contact substantially impairs the other person's ability to perform the activities of daily life.

**“Witness”** – Any individual who has knowledge of or information relevant to the allegations of harassment or discrimination.

## Section C: When Student Conduct Action is Initiated Based on a Complaint

If the individual who allegedly experienced the harm wishes to have the University pursue a student conduct action, (or in rare cases if the Director and Title IX Coordinator determine that it is necessary to move forward with a student conduct action with a Non-participating Complainant), then that individual (now Complainant) will be invited to provide further information. A determination must still be made as to whether to initiate student conduct action.

1. A Conduct Administrator will Interview the Complainant
2. The Director of Student Conduct, in consultation with the Title IX Coordinator, will decide whether to initiate a student conduct action based on the information received in the formal complaint.
3. The Director, in consultation with the Title IX Coordinator and other qualified campus community members, may initiate [Emergency Action Procedures](#) where there is an immediate threat to the health or safety of any person or the campus community. (See a visual representation of the [emergency action process](#))
  - a. How can I get [supportive or protective measures](#) (No Contact Directives) and other confidential options as a Respondent?
  - b. Who can be a Respondent Advisor and what is the [role of advisors](#)?
  - c. Who will be appointed to investigate? Can I [request a different investigator](#)?
4. A Notice of Allegations is issued to both parties at the same time
5. Respondent must contact the Administrator within **seven (7) business days** of receiving the Notice of Allegations to schedule an Initial Meeting

## Section D: Possible Resolutions of the Allegations

If a student conduct action is moving forward, the Director will initiate the Formal Process, which is intended to be a fair, neutral and equitable process for all students involved.

The Formal Process is not a criminal or civil action and is not subject to the rules of evidence, civil procedure, or other rules that apply to court and court-like proceedings. (Click here for a visual representation of the process.)

There are four general ways for a formal complaint of sexual misconduct, prohibited discrimination or harassment to be resolved:

1. The parties could agree to pursue alternative resolutions (facilitated dialogue, mediation, restorative justice);
2. Respondent can accept responsibility for the allegations;
3. The Administrator could dismiss the allegations; or
4. The Formal Process will continue.

If the charges are not appropriate for an alternative resolution, or either party does not wish to pursue an alternative resolution, dismissal is inappropriate, and the Respondent does not wish to accept responsibility, the Formal Process will continue as described in Section E.

## Section E: Steps in the Formal Process

If a student conduct action is moving forward, the Director will initiate the Formal Process, which is intended to be a fair, neutral and equitable process for all students involved.

*For further information on each step, click on the title/link.*

1. **Initial Meeting with Respondent**: The Respondent has **seven (7) business days** from the receipt of the Notice of Allegations to contact the assigned Administrator. The Administrator will ask Respondent to schedule a meeting with the Administrator as soon as possible to learn about the Formal Process and discuss a possible resolution.

*At this initial meeting Respondent will be able to review a summary of the Complainant's initial statement and will receive information about witnesses proposed by Complainant.*

Respondent will have **five (5) business days** after the initial meeting to provide the Administrator with names and contact information for proposed witnesses and proposed questions for Complainant, Complainant's witnesses and Respondent's witnesses.

2. **Follow up with Complainant**: The Administrator will then provide Complainant with information about the witnesses and questions Respondent has suggested.

Complainant then has **five (5) business days** to provide the Administrator with proposed questions for Respondent, Respondent's witnesses, and Complainant's witnesses.

3. **Fact-Gathering**: The Administrator will investigate the allegations by interviewing witnesses, gathering information, and following up with the Complainant and Respondent as needed.

This process is intended to provide an opportunity for both parties to provide information, respond to information that will be relied upon, and ask questions in a manner that effectively substitutes for cross examination.

4. **Close of Fact-Gathering**: The Administrator will close this phase of the fact-gathering investigation once the Administrator concludes that he or she has gathered the reasonably available relevant information. The Administrator will notify Complainant and Respondent before closing the fact-gathering investigation.
5. **Review of the Preliminary Report**: The Administrator will create a preliminary report which contains the relevant information the Administrator has gathered up to the close of the first stage of fact-gathering ("Preliminary Report").

The Administrator will make the Preliminary Report available to both Complainant and Respondent to review.



6. **Administrative Conference with Respondent**: The Administrator will schedule an administrative conference with Respondent typically within sixty (60) business days of the receipt of the formal complaint. This meeting provides the Respondent with the opportunity to respond to all of the information that has been deemed relevant and will be relied upon.

To allow the Respondent time to review the Report prior to the Conference, the Conference will generally be scheduled at least **ten (10) business days** after the release of the Preliminary Report.

7. **Administrator's Meeting with Complainant**: Following the administrative conference with Respondent, Complainant will be given the opportunity to meet with the Administrator and to respond to the Preliminary Report.
8. **Additional Fact-Gathering and Revised Preliminary Report**: The Administrator will conduct additional fact-gathering as needed. When the additional fact-gathering is complete, the Administrator will provide Complainant and Respondent with a Revised Preliminary Report. **No new information will be received after the Revised Preliminary Report is presented to the parties, unless the information could NOT reasonably and with due diligence have been previously provided.**
9. **Final Meeting with Administrator**: The Administrator will schedule a final meeting with each party. Complainant and Respondent will each have a final opportunity to respond to the Revised Preliminary Report. **No new information will be received at this meeting, unless the information could NOT reasonably and with due diligence have been previously provided.**
10. **Notice of Findings**: After the Revised Preliminary Report, and after the final meeting with the Administrator, the Administrator will issue a Notice of Findings. This should generally be within **ninety (90) business days** of the receipt of the formal complaint.

The decision as to whether the Respondent's behavior, as set forth in the Notice of Allegations, violated the student conduct code will be based on whether information in the Preliminary Report and Revised Preliminary Report demonstrates by a preponderance (more likely than not; greater than 50% likelihood) that the conduct occurred.

11. **Impact or Mitigation Statements for Sanctioning**: No later than **three (3) business days** after the Notice of Findings (when a finding of responsibility) is issued, the Complainant and Respondent may both submit statements to the Director for consideration during sanctioning.

## Section F: Expectations of All Parties in the Formal Process

### What happens if I don't check my email?

**UO Email as the Official Form of Communication:** Students have the responsibility to check their UO email, as the official method of University communications. Failure to check ones email will not act as a defense.

### What will happen if I choose not to participate in the process?

**Participation in these Processes:** Both Complainants and Respondents are generally expected to participate in these processes, however, the University will NOT take disciplinary action against a Complainant or Respondent for refusing to participate in the process.

If a Complainant, Respondent or witness chooses to answer some questions but not others or chooses to participate in some portions of the process but not others, the Administrator may consider how that affects the credibility or weight of the information that Complainant, Respondent or a witness chooses to provide.

Following a Notice of Allegations, non-participation by the Complainant, Respondent or witnesses will not by itself prevent the process from moving forward.

### Do I have to provide information or meet with the Administrator if requested?

**Providing Information:** Individuals are expected to comply with requests from the Administrator to provide documents and other relevant material to the extent that they are reasonably able to do so. Relevant material may include, but is not limited to, texts, photos, emails or other electronic communication, written documents, medical information, and proposed written questions that a Complainant or Respondent requests be asked of the other party or witnesses.

### What will happen if I provide false information during the process?

**Honest Participation:** All participants and witnesses are obligated to be honest and forthright throughout the process. Any participant or witness who knowingly makes a false statement in connection with the investigation and resolution of the allegations may be subject to disciplinary action. False statements include statements that omit a material fact as well as statements made that the speaker knows to be untrue.

## What happens if I destroy relevant information?

**Preservation of Relevant Information:** Participants and witnesses are expected to preserve relevant information, which means that they should not delete, destroy or otherwise alter any relevant material or information. Failure to comply with this provision may result in Student Conduct Code or disciplinary charges.

## How will University protect my privacy during the process?

**Safeguarding of Privacy:** All participants, their advisors and witnesses involved in the process outlined in this document are required to keep the information learned as part of this process private. While we understand that participants may seek the support of their families and friends, we expect them to do so without revealing details of the proceedings or information that they have obtained.

Except for the Notice of Findings, no copies of documents provided are to be made, shared with third parties (except the designated advisor), or posted publicly. No audio recording that is part of this process may be shared with third parties (except the designated advisor) or posted publicly. Failure to comply with this requirement is subject to further disciplinary action by the University.

Notices and other documents may be redacted to protect the privacy of individuals as necessary.

For more information about privacy practices and how information is protected, please see the Title IX Coordinator's [Notice of Privacy Practices](#).

## Can I share information that I receive in the Notice of Findings?

With respect to the Notice of Findings, participants may not use the Notice of Findings in a manner that would constitute retaliation under UO policy or state or federal law. The limitations set forth in this section shall not impact a student's right under FERPA to access a student's education records nor the any participant's rights under federal law to obtain a copy of the Notice of Findings.

## What do I do if someone retaliates against me?

Any action taken against an individual(s) for making a report or formal complaint of discrimination or harassment, for opposing discrimination or harassment, or for participating in a university resolution process, that deters the willingness of the individual(s) to speak out against discrimination and harassment and participate in the complaint resolution process is strictly prohibited by university policy.

Examples of retaliation include, but are not limited to, contacting a witness or other participant in order to dissuade that person from participating in the process, or excluding a witness or other participant from an activity solely because the witness or participant is participating in the student conduct process.

If you believe you are the subject of any act of retaliation, immediately contact the Director of Student Conduct or the Office of Investigations and Civil Rights Compliance so that they may assess the situation and offer appropriate assistance and resolution.

Retaliation is defined by the University's complaint and response policy: <https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resources-other/discrimination-complaint-and-response>.

## Section G: After the Formal Process – Sanctions and Appeals

### What types of sanctions are possible?

A full list of possible sanctions is listed in the Student Conduct Code, Section VI at <https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-1-conduct/student-conduct-code>

### Who decides the sanctions?

The Director of Student Conduct will assign the sanctions. The Director will consult with the Title IX Coordinator and the Administrator to determine the sanctions and to ensure that sanctions are consistent with other cases similar in nature, that bias was not present in the sanctioning process and to consider the factors discussed below.

### Can I submit an impact or mitigation statement?

Both the Complainant and the Respondent may submit a brief written statement. The impact and mitigation statements may be taken into consideration by the Director in issuing sanctions.

- An impact statement is a written statement from the Complainant describing the impact of the incident on the Complainant and expressing the Complainant's preferences regarding appropriate sanctions or aggravating circumstances the Complainant wishes the Director to consider.
- A mitigation statement is a written statement from the Respondent explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions imposed.

**NOTE:** The impact or mitigation statement must be submitted **no later than three (3) business days** after the Notice of Findings is issued.

Impact and mitigation statements will be made available to both Complainant and Respondent should they wish to view them and make a request to the Director.

### What is considered during the sanctioning decision?

The Director of Student Conduct will assign sanctions and will consider the guidelines below. Sanctioning decisions are made on a case by case basis.

The sanctioning of students found responsible for prohibited discrimination and harassment, or sexual misconduct (sex and gender-based stalking, sex and gender-based harassment and bullying, dating violence, and domestic violence) is a complex task that must take into account protecting the safety of the community and holding students found responsible accountable for their actions. In order to meet these goals, an appropriate combination of sanctions shall be issued for each case.

### **Aggravating Factors Considered in Sanctioning**

Factors that may be considered include but are not limited to:

1. Whether the student has a prior history of being found responsible for student conduct violations;
2. Whether the student has any history of violent behavior that has been adjudicated by the student conduct process;
3. Whether the Respondent has a history of failing to comply with any University No Contact Order or Emergency Action, other University protective measures, and/or any judicial protective order;
4. Whether the conduct at issue involved physical violence. “Physical violence” means exerting control over another person through the use of physical force (see (12) (b)). Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking and brandishing or using any weapon;
5. Whether the conduct at issue reveals a pattern of Sexual Misconduct;
6. Whether the conduct at issue was facilitated through the use of “date-rape” or similar drugs or intoxicants;
7. Whether the conduct at issue occurred while the Complainant was unconscious, physically helpless or unaware that the Sexual Misconduct was occurring;
8. Whether the Complainant is (or was at the time of the conduct at issue) a minor (under 18);
9. Whether the Respondent failed to participate in University required trainings on prohibited discrimination and harassment including sexual harassment, sexual violence prevention or related trainings;
10. Whether there were any other aggravating circumstances or signs of predatory behavior.

## Mitigating Factors

Factors that may be considered include but are not limited to:

1. Whether there is convincing evidence that the Respondent was provoked or pressured into the situation, even though the Respondent made a conscious choice to participate;\
2. Whether there is convincing evidence that the Respondent's ability to think rationally at the time of the conduct at issue was impaired by serious personal circumstances. Note: the consumption of alcohol or other drugs by the Respondent at the time of the conduct at issue is not a mitigating circumstance;
3. Whether the Respondent demonstrates a clear understanding of the impact that their behavior has had on the Complainant and the community;\
4. Whether the Respondent took immediate steps to remedy and/or address relevant underlying personal issues that may have contributed to the violation, including educating themselves on issues of sexual harassment, consent, or other issues directly related to the misconduct;
5. Whether there is convincing evidence that the Respondent has demonstrated sincere remorse for the conduct at issue;
6. Whether the Respondent clearly accepted responsibility for the conduct at issue;
7. The Respondent's level of cooperation and compliance during the process.

Generally, students found responsible for unwanted sexual penetration or other acts of sexual violence involving force, including dating or domestic violence will be sanctioned to a suspension of at least 2 years or more, or will face expulsion.

\*\*An individual must be a student in good standing in order to graduate from the University. Therefore, a degree will not be awarded to a student who is expelled prior to degree conferral. A degree will also not be conferred during a period of suspension.

A full list of possible sanctions is listed in the Student Conduct Code, Section VI at <https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-1-conduct/student-conduct-code>

## When are sanctions implemented?

Sanctions are typically implemented as of the date of the Sanction Decision. This can be delayed if the Director finds good cause to grant a request to delay the sanction decision pending the outcome of an appeal.

The Director will issue a written Sanction Decision to both parties **five (5) business days after** the Notice of Findings has been issued which will include information regarding appeals.

## When and how can I file an appeal of the final decision?

Either Complainant or Respondent can appeal a final decision **within 14 calendar days** of the final decision.

If the finding is “Not Responsible”, the final decision is the Notice of Findings and the 14-calendar-day timeline starts to run on the date the Notice of Findings is issued.

If the finding is “Responsible”, the final decision is both the Notice of Findings and the Director’s written Sanction Decision. The 14-calendar-day timeline will start to run on the date the Sanction Decision is issued.

The Complainant or Respondent can appeal a final decision by delivering a written copy of the appeal to the Office of Student Conduct and Community Standards or by e-mailing the appeal to [conductappeals@uoregon.edu](mailto:conductappeals@uoregon.edu) .

Learn more information regarding the [appeals process](#) by visiting the Appeals SOPs at <http://dos.uoregon.edu/appeals>

## Can I ask for sanctions to be delayed during the appeal?

As stated in the Appeals SOPs, in general, sanctions imposed will remain in effect through the University’s appeals process. A student found responsible for misconduct can request the Director of Student Conduct for a delay in sanctioning during the hearing of the Appeal.

To do so, the student must submit a request to [conductappeals@uoregon.edu](mailto:conductappeals@uoregon.edu) within 10 calendar days of receiving the Sanction Decision including a brief statement of why immediate implementation of the sanctions would cause significant harm to the student.

Generally, it will not be considered significant harm that the student may lose credit for courses in progress. If an appeal were to change the sanction or remand the decision for new process, the University would work with the student to remedy any interim effects of the sanctions.

If a stay is granted, sanctions will be implemented once a decision is issued, if an appeal upholds the lower decision.



## What are the reasons that I can appeal?

Parties to a student conduct proceeding may appeal a decision for four reasons:

1. To determine if the process was followed and was fair and free of bias;
2. To determine whether the decision reached regarding the Respondent was based on substantial information;
3. To determine whether the sanction(s) imposed were commensurate with violation;
4. To consider new information sufficient to alter a decision or other relevant facts not brought out in the original hearing only if such information or facts were not known to the person appealing at the time of the hearing.

An appeal is not a chance at a brand new decision, but rather a review of whether the process and outcome were fair, consistent with the process, and whether the information when viewed as a whole would permit a reasonable person to make that finding.

## Who decides the appeals?

Appellate Officers are faculty and staff tasked to review final outcomes from sexual misconduct student conduct processes on the procedural grounds specified in the [Student Conduct Code](#) and [Standard Operating Procedures for Appeals](#).

Appellate Officers serve on a voluntary basis and receive training on Title IX, sexual harassment and sexual violence, procedural due process, and administrative review.

Appellate Officers review student conduct cases to determine whether procedural error affecting the outcome of the case has occurred, whether the facts on which the determination was based were supported by substantial information, and whether there was a logical connection between those facts and the Administrator's conclusion. If a party presents material facts that were not previously known and could not reasonably have been known, the Appellate Officers shall consider those facts in their review.

For a list of current Appeals Officers, visit the [Deputy Coordinators and Appellate Officers page](#).

## [Section H: Frequently Asked Questions about the Formal Process](#)

Many questions about the process, what type of information will be considered and other aspects are answered in the [Frequently Asked Questions](#) section.

*These procedures apply to sexual misconduct allegations initiated on or after November 1, 2018. Matters already under investigation are subject to the previous procedures, unless the Director and Title IX Coordinator determines that there is good cause to use the new procedures and using the new procedures will not result in substantial prejudice to either student.*

### **I am a Respondent. I don't know if I can study for classes or prepare for exams during this process. What should I do?**

The Respondent Support Services person can connect you with priority access to counseling services, with other confidential resources on campus such as free legal resources, the health center and the Ombuds. The Respondent Support person can also assist you, or connect you with a Deputy Coordinator to assist you with any academic or other support that you may need such as talking with professors about moving exams, changing residences or other support that may be appropriate to help reduce the impact of this process on your academic experience.

You can ask to speak with a Respondent Support person, or request a different staff member by calling 541-346-3216 or by emailing the Title IX Coordinator at [titleixcoordinator@uoregon.edu](mailto:titleixcoordinator@uoregon.edu).

### **Is there a different process if I am a student-employee or graduate-employee?**

The context of the allegation, meaning whether it involves conduct directly related to your status as a student or an employee, will determine which process should be followed. This is not always an easy determination, and therefore the OICRC/Title IX Coordinator and the Director will assess each situation involving employees to determine which process will control.

Information about Employee Grievances processes can be found on the [Formal Employee Process page](#).

### **I just received a letter titled “Notice of Allegations and Investigation.” What does this mean?**

If you have received a Notice of Allegations, it means that the Offices of the OICRC/Title IX Coordinator and Student Conduct and Community Standards received a report that alleged that you were involved in an incident of misconduct, and that there is enough information to begin a

formal investigation. The purpose of the formal investigation is to determine if a violation of the [Student Conduct Code](#) occurred.

The Notice of Allegations and Investigation should also include an outline of the investigation process, which is a condensed version of these Student Conduct Standard Operating Procedures (SOPs).

This does NOT mean that you have been found responsible for a violation of the Conduct Code. It simply means that an investigation has been started and that you will be expected to participate in a fact-finding process to help the university determine what, if anything, happened.

Under our Student Conduct Code, you are considered not responsible unless and until the university determines by a preponderance of the information that you are responsible.

### **What can I expect if I am interviewed?**

During an interview, the Administrator will:

- Ask you questions related to the complaint
- Listen
- Take notes
- Ask you for the names of any other individuals who may have information or knowledge of the situation and about what happened
- Provide you an opportunity to present information and material related to the situation and about what happened
- Request that you keep the information you share with the Administrator confidential while the investigation is happening. This request is made to protect the integrity of the investigation process, and to protect participants and witnesses against allegations of retaliation.

The Administrator determines if, based on the information available, it is more likely than not a violation of University policy occurred. The Administrator does not determine sanctions.

### **How do I deny the allegation?**

You must schedule an interview with the assigned Administrator in order to deny the allegation. During your initial interview with the Administrator you will find out more information about

the details of the complaint and you will be able to respond. You will also have the opportunity to provide the names of witnesses with whom you would like the Administrator to speak, as well as to begin providing any other information you think would help the Administrator in understanding what happened.

### **Will all of my questions be asked?**

The Administrator will review questions that Complainant and Respondent propose for one another and for witnesses and will determine whether the questions are appropriate to ask.

Questions which are not appropriate to ask include, but are not limited to, questions that ask for or about irrelevant information and questions that are unduly harassing. Questions which ask for information which has already been included in the Preliminary Report or Revised Preliminary Report will be considered unduly harassing. Questions may also be determined to be unduly harassing for other reasons. Leading questions and questions that ask for information already in the Record will usually not be asked, or will be rephrased. The Administrator will ask those questions that are determined relevant and not unduly harassing.

### **What types of information will be considered? What is relevant?**

The Administrator has the sole discretion to determine the relevancy of information submitted and to include or exclude certain information. Information is generally considered relevant if it has a tendency to make a fact that is significant to the investigation more or less probable.

In general, the Administrator will not consider relevant:

- statements of personal opinion, rather than direct observations or reasonable inferences from the facts;
- statements as to anyone's general reputation or character traits;
- prior or subsequent sexual conduct of either party;
- statements by advisors;
- prior or subsequent misconduct of either party;
- statements from witnesses without actual knowledge relating to the facts;
- expert witnesses;

There may be circumstances where exceptions will be made to the above list where information may be relevant for other reasons.

### **Relevance of Information about Prior or Subsequent Misconduct:**

Information about prior misconduct can be used in some circumstances to assist in determining if there are patterns of similar behavior, to show that someone had prior knowledge of rules or practices, to demonstrate intent, motive, or absence of mistake.

For example, information of a pattern of prohibited conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a code violation, may be deemed relevant to the determination of responsibility for the allegations under investigation.

The determination of relevance of pattern information will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar conduct.

Such prior or subsequent conduct may also constitute a violation of the Student Conduct Code, in which case it may subject the Respondent to additional sanctions. The Administrator will determine the relevance of this information.

### **Relevance of Information about Prior or Subsequent Sexual Conduct:**

Prior sexual history generally will not be admitted to prove character or reputation and typically will not be used in determining whether the conduct occurred.

Exceptions to this rule include when consent is at issue, in which case prior consensual activity between the two students, while not determinative, may be relevant to determining whether consent was sought and given, to explain an injury, motive or bias, or to establish a pattern or intent.

### **What information should I share?**

It is important that you share all information relevant to the underlying allegation because the Administrator is tasked with compiling an accurate reflection of the alleged incident throughout the [fact-gathering stage](#) of the process should be shared.

### **Can I submit a polygraph examinations and test results?**

Polygraph examinations and test results generally will not be allowed. The Administrator, in consultation with the Title IX Coordinator, has the discretion to allow or not allow the admission of polygraph examinations and test results. In making that determination, one factor the Administrator may consider is whether an offered polygraph examination or test result contains pertinent facts relevant to making a decision and such facts cannot be obtained through another method.

When allowed, polygraph test results will not substitute for the Administrator's independent assessment of credibility. Complainant or Respondent may request the Administrator to consider submission of a polygraph examination and test results.

### **What happens to information that I submitted but that was not considered relevant?**

All information submitted will be retained by the Administrator until the period for appeal has expired. Information deemed not relevant may be made available to the Appeals Officer as appropriate. This includes versions of questions that were submitted but were not asked or were rephrased.

### **Will the Administrator talk to all of my proposed witnesses?**

The Administrator will make a reasonable effort to talk to all of those witnesses that the Administrator determines may have information relevant to the investigation, and that are not simply duplicative of information already received, or who are simply speaking to the character of the party or witness. The University does not have the ability to compel individuals to provide information. The University also does not have the ability to require individuals who are not affiliated with the University to meet with the Administrator.

### **What does it mean when the SOPs say the Decision-maker will assess the credibility of parties and witnesses?**

During the investigation, the parties and witnesses will frequently present facts upon which there is no agreement. In order for the Decision-maker to arrive at a decision, they often have to determine which version of the facts is more credible. In other words, they need to determine which version of events is more believable. This decision is based on many factors including the credibility of the party or witness providing the information. In making these determinations, the Decision-maker relies on many factors which are commonly weighed in making credibility determinations.

This list of factors is not exhaustive but generally includes:

- The opportunity and ability of the person to see or hear or know the things discussed in the person's statement.
- The person's memory;
- If the information presented corroborated by another person or by other information? (For example, information presented by persons who saw the party soon after or at the time of the underlying occurrence or is there physical or written documentation that corroborates the person's statements)
- The person's manner and demeanor while providing information to the decision-maker;

- The person's interest in the outcome of this investigation;
- The person's bias or prejudice, if any;
- Whether other information in the Record contradicts the information presented by the witness or party;
- The reasonableness of the person's statements in light of all of the evidence;
- Is the statement believable on its face? Does it make sense?
- Past behavior (to the extent relevant under the SOPs);
- And other factors that bear on believability.

These factors are drawn from resources frequently used by judges and decision-makers in agency processes similar to this process. You can look at the resources if you wish: 1) the 9th Circuit Manual of [Model Jury Instructions](#) and the [guidance](#) from the Equal Employment Opportunity Commission.

### **What if I was intoxicated at the time of the incident or can't remember?**

First, to encourage reporting, students reporting incidents of sexual misconduct will not be subject to Student Conduct Code violations or disciplinary sanctions relating to the use of alcohol or drugs in connection with the underlying incident. Learn more about [alcohol and drug amnesty](#) in the SOPs.

The use of alcohol or drugs will never function as a defense for engaging in sexual misconduct, harassment or unwanted sexual contact.

Second, if you are concerned about what effects intoxication may have had on your memory of the incident in question or your ability to give or seek explicit consent, you can look [here](#) to see how that is considered by a Decision-maker.

### **Will the Administrator talk to other witnesses that I don't suggest?**

The University has the responsibility to gather information relevant to the allegations. Consistent with that responsibility, the Administrator may talk with any individual that the Administrator believes may have information relevant to the allegations.

The Administrator may consult with third parties, such as individuals or professionals with specialized knowledge in a particular field in order to understand a relevant fact. If the

Administrator consults with someone for these purposes, the parties will have the opportunity to respond to the relied upon information.

### **I am concerned the investigator is not treating me fairly. [What should I do?](#)**

Please see [Section C of the standard operating procedures](#) which answers this question.

### **Can I do my own investigation? Can I have my advisor or their investigator obtain information and give it to the Administrator?**

Statements or information that are obtained by someone other than the Administrator (or an agent of the Administrator), are generally not allowed. This includes information obtained by the participant, an advisor, a private investigator or other person other than the Administrator.

As described above, if the Complainant or Respondent believe a witness has relevant information, they should submit that person's name, contact information and a summary of what information the witness may have to the Administrator.

While witness statements obtained by third parties generally will not be allowed, a Complainant or Respondent can request the inclusion of such information. The Administrator has the discretion to approve or deny the request. In making a decision to approve or deny the request, the Administrator may consider whether the participant requesting the inclusion of the information has submitted sufficient information to establish that the witness is unavailable to be interviewed by the Administrator.

**Unavailable** means that the witness cannot be reached in-person, by telephone, written communication or other means. Unavailable does not mean that the witness was not willing to talk to the Administrator.

If a witness statement obtained by a third party is allowed in to become part of the information that the Administrator considers, the Administrator will determine what weight should be placed on the statement and the statement will not substitute for the Administrator's independent assessment of credibility.

### **Can my advisor submit statements on my behalf?**

Factual statements submitted by Advisors will typically not be included in the information considered by the Administrator. The Administrator has the discretion to make an exception to this provision. In determining whether to make an exception, the Administrator may consider whether one of the participants is requesting that the factual statement be included, and whether the statement contains information relevant to the allegations.



## **What if there is also a criminal process occurring?**

### **About Concurrent Criminal and Administrative Processes**

University of Oregon Police are responsible employees and have an obligation to share information with the OICRC/Title IX Coordinator related to all incidents of sexual misconduct, prohibited discrimination and harassment.

Eugene Police Department and other local law enforcement agencies typically do not share detailed information with the University or UOPD unless asked to do so by the victim.

If the allegations may constitute a violation of both the Student Conduct Code and the criminal code, students have the right to file a criminal complaint, a student conduct complaint, both or neither.

However, initiation of a criminal process does not necessarily mean a University process will also be initiated.

If the criminal process is initiated, at the request of law enforcement the University may temporarily defer all or part of its own investigation until after the active fact-gathering stage of the law enforcement investigation. If the student conduct process is suspended, in most instances, it will promptly resume as soon as the active fact-gathering stage of law enforcement is complete.

The decision to suspend the student conduct process will be made by the Director and the Title IX Coordinator in consultation with the relevant law enforcement agency, in consideration for the health and safety of the campus community, and in accordance with state and federal law.

In cases where there are concurrent criminal and conduct processes, the investigation of both may proceed concurrently and Administrators may conduct joint interviews with law enforcement as appropriate.

While interviews may be conducted jointly, the investigators will retain their own notes, write separate investigative reports and may ask different questions based on the difference between University policies and criminal laws. The joint interviews are undertaken for convenience, efficiency and to reduce the number of times individuals must be interviewed.

Respondents will not be interviewed concurrently.

## **Why is there a formal university investigation if no criminal charges are being pursued?**

The Student Conduct Code ensures your rights as a student are protected and outlines your responsibilities and the university's expectations for your behavior as a student. The university's student conduct investigation is independent of any criminal investigation.

However, if the University receives information regarding a criminal process, it may trigger an obligation on the part of the University to respond as appropriate to ensure the safety of students and the campus community. Title IX, along with other state and federal laws, obligate the university to provide a safe environment free from discrimination and harassment.

## **Can I request my transcript during this process?**

Due to pending conduct process, if a Respondent requests a copy of the Respondent's transcript, a letter will accompany the provided transcript stating that there is a student conduct process pending and the charges.

## **What happens if I leave or graduate during the conduct process?**

An individual who is suspended or expelled (out of status) cannot participate in any University sponsored activity as a student, including graduation or other graduation related events. Therefore, a degree will not be awarded to a student who is suspended or expelled prior to degree conferral. A student may be awarded the degree after the term of suspension is served and the student is back in student status. An expelled student may not regain student status.

The University retains jurisdiction over a Respondent even if the Respondent withdraws from the University prior to resolution of a complaint. If a Complainant or Respondent chooses to not participate, the University will move forward with the student conduct process, including the Administrative Conference and sanctions without the benefit of their participation.

## **Will my transcript show that this process occurred?**

If the student conduct process results in a responsible finding for which a sanction of suspension or expulsion is assigned, there will be a notation made on the Respondent's transcript that states either, as applicable:

- Expelled for Student Conduct.
- Suspended for Student Conduct (date to date)

## Can I request exceptions to any of these rules?

If a participant wants to request an exception, they should submit a request to the Administrator. Forms can be found on the OICRC website for convenience. In order to be considered, requests must provide a brief written statement regarding the reason for the exception and be received by a date that gives the Administrator a reasonable amount of time to consider the request. In consultation with the Title IX Coordinator, Administrators have the discretion to deny or grant a participant's request.

**Exceptions initiated by the Administrator.** For good cause and in consultation with the Title IX Coordinator, an Administrator may also make an exception to these procedures. If an exception is made by the Administrator, the Administrator will send out notice of the exception within a reasonable time.

## What kind of training does the Administrator receive?

The Director and Administrators receive annual training on how to handle prohibited discrimination and harassment, and sexual violence complaint investigations and to implement these procedures. For more information on the type of training required, please view

<https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf> (En Español)

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-ix-201709-sp.pdf>

Administrators also receive training on how to conduct neutral investigations in a manner that understands techniques such as trauma and clinically informed interviewing and that protects the safety and procedural rights of Complainants, Respondents and witnesses.

Examples of these include those provided by ATIXA, T9 Mastered and the Oregon Attorney General's training delivered by the Sexual Assault Task Force. These trainings are generally led by attorneys, law enforcement and higher education professionals, psychologists and experts on trauma and focus on the specifics of investigating cases, performing investigative interviews in a trauma-informed manner (often based on a Forensic Experiential Trauma Interview (FETI), understanding the impacts of trauma and intoxication or incapacitation on memory, assessing credibility, weighing and determining relevancy of information gathered, analyzing facts and applying policies and other aspects of formal processes.

In a typical year, Administrators at the UO also receive additional training on the nuances of sexual violence, dating and domestic violence; different types of prohibited discrimination and harassment including those based on sex or gender, stalking, and bullying behaviors; procedural fairness and adjudications; implicit bias; mental health disorders; evidence law; running administrative conferences; understanding criminal processes etc.

## **What happens if I am found responsible?**

When a student has been found responsible for a violation of the Conduct Code under the standard operating procedures, the Notice of Findings will be submitted by the investigator/Decision-maker to the Director of Student Conduct for a determination as to appropriate sanctions. Please see the standard operating procedures that [discuss this process](#).

## **How can I get a transcript of the Administrative Conference in preparation for an appeal?**

Once the initial decision has been issued, and after the sanctioning decision has been made in cases involving a finding of responsibility, the Preliminary Report, the Revised Preliminary Report, the Notice of Findings and the audio from the Administrative Conference will be shared with the Complainant and the Respondent. This information will remain posted during the period of time within which they may file an appeal. The link to the files will be emailed to the Complainant and the Respondent directly, and requires that each sign in to their account to access the materials.

## **What happens if an appeal determines that the Formal Process was unfairly conducted?**

If the appeal determines that procedural error may have significantly affected the outcome of the process, or that actual bias was present, or that there was insufficient information (meaning that no reasonable person could have come to that decision based on the information presented), then the decision would be sent back to the Student Conduct office for either a new process or further investigation.

If you believe the process was conducted unfairly, there are also options via a complaint with the [Office of Civil Rights](#) or the [Department of Justice](#).

## **Is there an external appeal process?**

Parties can file an external appeal with the [Office for Civil Rights](#) or with the Higher Education Coordinating Commission (HECC) Parties may also pursue an appeal by filing a writ of review with the Lane County Court. See ORS 34.010-100. Parties are encouraged to seek independent legal advice in order to determine if and how to file an external appeal.

## **What are my rights and responsibilities in the Formal Process?**

As outlined in the [Student Conduct Code](#) and the [Standard Operating Procedures for Sexual Misconduct cases \(SOPs\)](#), you can expect the following protections:

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

As indicated on the Notice of Allegations and Investigation and detailed in the [SOPs](#), the Decision-maker will not draw any adverse inference if you choose to remain silent during the investigation. But the decision-maker is free to draw inferences for selective participation if you choose to answer some questions but not others or participate in some portions of the student conduct process but not others.

The university encourages students to fully participate in an investigation.

### **How am I ensured equitable treatment throughout the process?**

The Formal Process is designed to ensure equitable treatment of both parties throughout the investigation and administrative conference. This means that both the Complainant and Respondent have the same opportunity to designate an advisor at any time during the resolution process; are informed of the outcome of the investigation simultaneously; and may appeal the decision and applicable sanctions.

In short, both parties enjoy the same protections and are subject to the same rules. In addition, both parties may appeal the decision of the Formal Process which would then go to an Appellate Officer for review for any possible procedural errors or bias that may have influenced the outcome. This is not a rubber stamp, but rather a rigorous review by a non-involved trained staff to ensure that the institution has met its burden of proof and followed its own process.

# Advisors and the Role of Advisors

## **I would like to select an advisor to assist me during the student conduct process. What does this mean?**

Being an advisor means that an individual is tasked with helping a participant prepare for student conduct meetings or conferences, accompanying the party in any conduct proceedings, advising the participant in the sharing of information, and assisting during the appeals process.

This is an important role because resolving a complaint through the student conduct process can be a challenging experience and for that reason the Office of Student Conduct and Community Standards encourages both parties to seek the assistance of an advisor to support and accompany them through the process.

We strongly encourage individuals not to choose as advisors individuals from Complainant or Respondent support services in the Dean of Students.

Students can find free legal assistance at [Student Survivor Legal Services](#) (for complainants) or at the [Office of Student Advocacy](#) (advises mainly respondents). However, an individual can also choose to hire independent legal counsel to serve as an advisor. In that event, the individual is solely responsible for any fees related to the representation.

## **What is the advisor's role in the student conduct process?**

As someone who helps the Complainant or Respondent navigate the student conduct process, the advisor is a silent participant during all official meetings. This means that the advisor may provide advice outside of these meetings but may not advocate on behalf of, speak on behalf of or instead of the individual they are assisting, or act in opposition to university policy during the course of the resolution of a complaint. The advisor may not provide testimony or otherwise intercede in or obstruct the student conduct process.

However, you may request a break at any time during meetings to talk to your advisor, as long as it doesn't unreasonably impede the meeting.

The advisor is someone who is present to help the Complainant or Respondent understand the proceedings and to support them in what can be a difficult and stressful experience. Because of this, it is strongly recommended that the advisor become familiar with the investigation and resolution process in order to effectively advise the participant and accurately and appropriately guide them throughout the process. The Title IX Coordinator and designees are available to provide training for advisors. Additionally, advisors are encouraged to review the information and resources on this website so that they know the university process and proceedings so that they can more effectively assist the Complainant or Respondent.

Unfortunately, we have seen advisors choose not to take advantage of these opportunities and therefore provide inaccurate and sometimes disadvantageous advice. Engaging in obstructive behaviors, ignoring or intentionally violating the procedures set in place or providing flawed guidance not only does a disservice to the participant they are assisting, but may also place advisors in violation of their own ethical obligations (such as in the case of attorneys).

It is also important for advisors to understand that if they do not comply with the university's rules and procedures, they may be asked to leave the proceeding or be restricted from serving as an advisor.

### **Does an advisor need to be an attorney?**

No. A student may select any person to be an advisor, including but not limited to:

- Another student not involved in the complaint
- A parent or family member
- A member of the faculty or administration not involved in the complaint
- A translator
- An attorney, limited to one attorney if a member of a law firm
- A union representative

It is strongly recommended that an advisor not be a witness or have a conflicting role in the underlying allegations or student conduct process.

As a reminder, you should not offer legal advice if you are not a trained legal professional.

### **Do I need to have the advisor complete a form?**

If you have chosen an advisor for the student conduct process, you (the student) must complete the Advisor Designation and Authorization [form](#).

### **Where can my advisor get more information on the student conduct process?**

An advisor can call the Office of Student Conduct and Community Standards to talk with a conduct professional about the conduct process. For questions related specifically to the prohibited discrimination, harassment, and sexual misconduct process, advisors can call the Office of Investigations and Civil Rights Compliance.

The student conduct process is outlined in the [Student Conduct Code](#).

Additional standard operating procedures apply to allegations of prohibited discrimination, harassment, and [sexual misconduct](#).

The student conduct process is also described in detail on the [Office of the Dean of Students website](#) which provides a general overview.

The Title IX Coordinator and/or the Office of the Dean of Students will also supply the student with confidential resources and support information. These are described in greater detail at the [Resources for Complainants](#) and [Resources for Respondents](#) sections of this site.

### **Who should I contact if I need disability accommodations during the student conduct process?**

The Complainant or Respondent should promptly notify the Investigator in charge of their investigation if they may need accommodations during any part of the student conduct process and if the party is a student, they student should contact the [Accessible Education Center](#) (AEC) to discuss what accommodations may be appropriate for their particular situation. All student accommodation requests are assessed, granted and made by AEC. Non-student participants should contact the Investigator to discuss accommodation requests.

However, if at any time the Director of Student Conduct and Community Standards determines that a student accused of misconduct under the Student Conduct Code lacks the mental capacity to respond to the allegation, the Director will pause the student conduct process and/or proceeding until the Director determines the student may adequately respond to the allegations and meaningfully participate in the process.

### **I speak English as a second language. Are there additional resources available during the student conduct process?**

The Complainant or Respondent may, on their own, select an English interpreter to assist them with the process. Individuals have often sought assistance from professors, advisors and friends or family when language has been a barrier to full participation. There are resources in the Eugene/Springfield area and the student may request assistance from the Director or the OICRC in locating assistance. The University will attempt to fulfill this request as appropriate and reasonable. The interpreter may accompany the student to official meetings along with the advisor, but their role at official meetings will be limited to language translation.

### **Does the designation of an advisor affect the student conduct process?**

The designation of an advisor does not change how an allegation of student misconduct will be resolved because the student conduct process is a student-centered process. All communications will be directed to and take place directly with the Complainant or Respondent.

The investigator reserves the right to recommend for removal any advisor who distracts, derails, impedes or disrupts any part of the student conduct process. If the Title IX Coordinator and Director of Student Conduct or their designees determine that the advisor has engaged in



unreasonable, disruptive, harassing or retaliatory behavior, they may require the Complainant or Respondent to proceed without an advisor or identify a new advisor.

### **Can I have more than one advisor?**

No, a participant may only have one advisor during the process. In order to change advisors during the process, a participant will need to submit a new Advisor Designation Form. Generally, changing advisors mid-process will not constitute a reasonable delay.

Specifically, a participant may not designate an entire law firm as their advisor for this Formal Process. Only one attorney from that firm may be designated as the advisor at a time. However, to avoid unreasonable delays, if an attorney encounters a conflict in representation or scheduling, another attorney from that firm may replace temporarily the designated advisor. The participant will need to confirm this temporary replacement by submitting an Advisor Designation Form prior to the advisor's participation in the process.

Where can I find more information on my rights during the student conduct process?

Students involved on either side of the complaint are entitled to a fair, balanced, and equitable resolution process. Learn more on the [Complainant Rights](#) and [Respondent Rights](#) pages.

### **Are there [alternative resolutions](#) to allegations of student misconduct other than the formal student conduct process?**

Please see [Section D of the standard operating procedures](#) which answers this question.

### **What happens if there is a criminal investigation?**

Please see [Section H of the standard operating procedures](#) which answers this question.

# Resources for Complainants

If you are (or someone you are with is) in immediate danger or feel unsafe, call 9-1-1.

The University of Oregon is committed to fostering an environment free of sexual harassment, including sexual assault, dating or domestic violence, gender-based harassment and bullying, and stalking. We expect community members to engage in relationships and sexual interactions that are characterized by consent.

## University Support and Accommodations:

At your request, the university can make accommodations including: make transportation and work arrangements, make financial aid accommodations, provide visa and immigration assistance, connect you with off-campus resources, and/or make a safety plan with you, including obtaining protective measures or orders. These accommodations, and the others listed below, are available whether or not you choose to report to law enforcement. The Crisis Intervention and Sexual Violence Support Services team can assist in arranging accommodations.

The Crisis Intervention and Sexual Violence Support Services staff provide crisis intervention services 24 hours a day, seven days a week.

### **Academic Accommodations**

We know experiencing issues of sexual harassment can affect many aspects of a student's life. Our goal is to remedy the impact on academics as much as possible and support students in successfully continuing and completing their education. The Sexual Violence Support Services team can assist in arranging academic accommodations.

### **Counseling Services**

The [University Counseling Center](#) offers confidential support, evaluation, and counseling for students experiencing personal difficulties as a result of having experienced an incident of sexual harassment, including sexual assault, dating or domestic violence, gender-based harassment or bullying, and stalking. Professional counseling staff, licensed psychologists or therapists with experience in trauma response and healing are available to assist students with personal counseling.

Students can make an appointment with the University Counseling Center by calling 541-346-3227 and asking to make an appointment with someone on the Interpersonal Violence Response Team. This team will help students connect with trained individuals and other services.

## Health Services

The [University Health Center](#) is committed to providing students with physical and emotional care following incidents of sexual harassment, including sexual assault. During clinic hours, students can be seen by medical professionals specially trained to care for those who have experienced these issues. There is no charge for this [confidential](#) appointment.

The medical team provides services including emergency contraception, antibiotics to prevent infection, and physical exams and other services. Staff also treat students who are experiencing difficulty sleeping, anxiety, or depression. In addition, they can provide access to other resources, including referrals to on- and off-campus support services.

If a student desires, there are medical professionals at the University Health Center who have the ability to collect legally admissible evidence. This anonymous collection preserves evidence if a student decides to report at the time of the incident or at a later time. While it is better to collect evidence as early as possible, this is only done if the student chooses. Health center staff are not required to report the incident to law enforcement or to the university even if evidence is collected. To contact the University Health Center, call 541-346-2770.

## Housing Accommodations

Many students who have experienced sexual harassment, including sexual assault, dating or domestic violence, gender-based harassment or bullying, and stalking no longer feel safe in their current living situation. The Crisis Intervention and Sexual Violence Support Services Program can assist students with a variety of housing options depending on their specific circumstances.

- **On-campus housing accommodations:** For students who live on campus, there are several options for alternate campus housing. Typically, only in cases where there is an emergency action and a pending conduct process would the UO remove the accused student from the housing community. However, in cases where the survivor does not choose to disclose who hurt them, does not wish to move forward with a formal report or investigation, the perpetrator is unknown, or based on victim's request, there is usually the option of moving the survivor to an alternate housing location on campus.
- **Off-campus housing accommodations:** Students living off campus should contact the Crisis Intervention and Sexual Violence Support Services Program at 541-346-7233 (SAFE) to discuss alternative housing options.

## Legal Services—Student Survivor Legal Services

The University of Oregon's [Student Survivor Legal Services](#) offers legal support to student survivors of sexual assault\*. A licensed attorney is available to advise and represent survivors in a variety of areas, including:

- obtaining restraining and stalking protective orders

- asserting legal rights in criminal cases, student conduct code proceedings, and in housing and employment contexts taking other measures to help students maintain privacy and security

To make an appointment with the Student Survivor Legal Services attorney, call 541-346-8619.

*\*All information obtained in the course of representation will be held confidential consistent with state and federal law and is not subject to required reporting.*

# What are Resources For Respondents?

## University Support and Accommodations:

The UO is committed to a fair, unbiased, and consistent learning environment where every student is treated with dignity and respect and is granted all procedural protections afforded by the Student Conduct Code.

Upon request, the university can provide interim measures to support Respondents including: making transportation and work arrangements, making financial aid accommodations, providing visa and immigration assistance, or connecting with off-campus resources. The Respondent Support Services person who reaches out to you can assist in arranging these types of interim measures, as well as Deputy Coordinators, the Dean of Students office and the Title IX Coordinator's designees.

### **Respondent Support Person**

The Office of the Dean of Students can provide students accused of code violations with a support person to help them understand available resources and provide some guidance them as they navigate the conduct process. This includes providing a safe, non-confidential but supportive listening space and helping the Respondent navigate family and community impacts and on and off-campus resources. For this reason, a Respondent Support volunteer will reach out to students accused of conduct code violations at the request of the Director of Student conduct or the Title IX Coordinator.

### **It is important to understand that the Respondent support person IS NOT:**

- An advisor or process advocate on behalf of a Respondent.
- A confidential resource - confidential resources for Respondents are listed below.
- Providing legal advice - legal advice should be sought through an attorney.

### **The Respondent support person CAN serve in the following capacities:**

- Attend meetings (investigative conversations, housing removal/relocation discussions, resolution agreement discussions, e.g.) **as a support person**
- Review documents and materials from investigation, final report, and sanctioning agreements as requested to assist the student in understanding the process

- Provide general support with appropriate academic or other reasonable accommodations responsive to the impacts of the process,
- Navigate logistical challenges such as interim suspensions or restrictions of privileges, access to dining facilities and other needs
- Assist with referrals to counseling and/or psychological services, or helping you find resources such as legal counsel, interpreter/translation services, and other resources for specific student populations such as graduate and international students or GEs.

## Counseling Services

The [University Counseling Center](#) offers confidential support, evaluation, and counseling for students experiencing personal difficulties including being accused of conduct code violations. Professional counseling staff, licensed psychologists or therapists with experience these issues are available to assist students with personal counseling. Students can make an appointment with the University Counseling Center by calling 541-346-3227 and asking to make an appointment with someone, or by attending drop-in hours most weekdays between 9:00am and 3:00pm.

## Health Services

The [University Health Center](#) is committed to providing students with physical and emotional care at all times. The medical team provides services including emergency contraception, antibiotics to prevent infection, and physical exams and other services. Staff also treat students who are experiencing difficulty sleeping, anxiety, or depression. In addition, they can provide access to other resources, including referrals to on- and off-campus support services.

## Housing Assistance

Students may no longer feel safe in their current living situation. The University can assist students with a variety of housing options depending on their specific circumstances.

- **On-campus housing accommodations:** For students who live on campus, there are several options for alternate campus housing. Typically, there is option of moving to an alternate housing location on campus.
- **Off-campus housing accommodations:** Students living off campus should contact the ASUO Office of Student Advocacy to discuss issues with off campus housing. (541) 346-3722.