

## OREGON TECH

### STUDENT CODE OF CONDUCT: DISCIPLINARY PROCESS

The following information is provided to inform students of the procedures in place at Oregon Tech for resolving alleged violations of University regulations. The procedures are designed to allow for fact-finding and decision-making in the context of the Oregon Tech educational community. The objective is to provide procedures that balance the rights of the individual with the legitimate interests of the University and community.

#### Reporting

- Any member of the University community (faculty, staff or student) or any person who is unaffiliated with the University who has knowledge of an alleged violation of the Code of Conduct may file a report against a student alleging that a violation of the Code of Conduct has occurred. The University may itself initiate a report.
- Such a report shall be filed with the Office of Student Affairs as soon as possible but typically within 180 calendar days (not University business days) of the alleged violation. A later report may be accepted with the approval of the Vice President for Student Affairs, the Dean of Students, or designee.
- The report must be submitted in writing and signed by the reporting party(s), or submitted via an approved online form and electronically signed by appropriate technical method, and must include the date, time, place, name(s) of person(s) involved (e.g., the accused, witnesses) and sufficient detail to make a determination of whether disciplinary action may be warranted.
- Reports may be initiated for incidents where concurrent criminal charges are pending. The University reserves the right to adjudicate incidents without regard to either pending civil litigation or criminal prosecution. University disciplinary proceedings may proceed before, during or after court proceedings.

#### Evidentiary Standards

Formal rules of procedure and evidence typically found in a court of law do not apply to disciplinary matters. For a student to be found responsible, the evidence must support a determination that it is “more likely true than not” (known as the “preponderance of the evidence standard”) that a violation of the Code of Conduct occurred. Except, however, to impose the sanction of expulsion, the alleged violation of the Code of Conduct must be proven by “clear and convincing evidence”, which requires proof that it is substantially more likely true than not that the alleged violation occurred. Hearsay evidence and personal testimony may be considered but will be weighed accordingly.

#### Disposition of Charges

The University disciplinary process is administered through the Office of Student Affairs and is described here. Alleged violations of University regulations where neither disciplinary suspension nor disciplinary expulsion are a possibility are normally resolved through an Administrative Hearing process with a University hearing officer. Alleged violations of University regulations where disciplinary suspension or disciplinary expulsion are a possibility may be resolved through the Student Hearing Commission. Allegations where a one-on-one meeting between the hearing officer and the responding party would be the most effective way to establish the facts of the case are typically referred for an Administrative Hearing. Allegations that are complex, sensitive, require several witnesses, or involve an alleged victim are often referred to the Student

Hearing Commission. The Vice President for Student Affairs, the Dean of Students, or designee will assign the type of hearing after reviewing the initial report.

A responding party or reporting party in a case assigned to an Administrative Hearing may request that their case be resolved at the Student Hearing Commission. Such a request must be made before the scheduled Administrative Hearing. The request must be in writing and explain the perceived benefit of the Student Hearing Commission. The Vice President for Student Affairs or Dean of Students will review such requests and make a final determination as to the type of hearing.

### **Victim Amnesty**

While the University does not condone underage drinking or violation of other University policies, it considers reporting assaults to be of paramount importance and will therefore extend limited immunity to victims to foster reporting and adjudication of sexual assaults on campus.

### **Student Rights in Conduct Proceedings**

The University considers the disciplinary process to be an educational opportunity for the student that can promote growth in personal understanding of one's role as a member of an educational community and a better understanding of one's rights, responsibilities, and privileges therein. During a disciplinary hearing process, both the responding party and the reporting party have the rights to:

- A written notice of the alleged violation(s)
- An explanation of the student conduct process upon request
- Have no code violation assumed until proven
- A timely hearing
- Be accompanied by an adviser during the hearing. The adviser is limited to advising the student and may not present the case, question relevant participants or make statements during the proceedings to participants other than the student they are advising.
- Have access to the information, statements and other evidence to be presented at the hearing in advance of the hearing. The university retains discretion about the time, place and manner in which access to such information is permitted.
- Be present during the entire hearing, except during deliberation.
- The accused has the right to question their accuser, either directly or indirectly, at the discretion of the hearing officer or hearing panel chair; the reporting party has the right to question the accused either directly or indirectly, at the discretion of the hearing officer or hearing panel chair. Question witnesses, either directly or indirectly, at the discretion of the hearing officer or hearing panel chair
- Present material witnesses (those with firsthand knowledge of the incident). The responding party and reporting party are responsible for contacting and arranging for the attendance of their own witnesses in all cases.
- The responding party has the right to a written notification of the outcome of the hearing; the reporting party has the right to receive written notification of the outcome of the hearing when permitted by law.
- An avenue for appeal from an Administrative Hearing, a Student Hearing Commission hearing, or a grievance hearing.

### Administrative Hearing

1. Upon determining that sufficient evidence exists to believe that a violation of the Code of Conduct may have occurred, the Vice President for Student Affairs, the Dean of Students, or other hearing officer with jurisdiction will notify the student in writing of the alleged violations against them. The written notice will be delivered by one of the following methods: hand delivery to the student; sent electronically to the student's institutional email address (oit.edu email address) or; sent by U.S. mail to the student's last known address as filed in the Registrar's Office. Students are responsible for providing and maintaining a current local address with the Registrar's Office.
2. At the Administrative Hearing, the student will be provided with the following:
  - a. An explanation of the alleged violations of University policy;
  - b. A summary of the facts and information that substantiate the allegations;
  - c. The opportunity to reflect upon and respond with their account of the incident or circumstances pertaining to the allegation(s);
3. An explanation of the decision of the hearing officer that may result in the following:
  - a. The allegation(s) may be dismissed as unfounded;
  - b. The student may admit responsibility for the violation(s) and have a sanction imposed;
  - c. The student may be found responsible for violating the Code of Conduct and have a sanction imposed.
4. Any sanction, except disciplinary suspension, deferred suspension, and disciplinary expulsion may be imposed.
5. Decisions reached at an Administrative Hearing shall be final with no right to appeal or request other proceedings.
6. Failure to respond to a written allegation of charges or failure to complete the assigned sanction(s) will result in either a hold being placed on the student's enrollment privileges or graduation, the filing of additional charges, or a decision being made based on the information available at the time.

### Student Hearing Commission

Hearing procedures are provided for allegations against an individual or group where suspension or expulsion from the University are possible if they are found responsible, and for grievances. An Administrative Hearing may be conducted in these cases when the individual or group admits responsibility for the Code of Conduct violation(s). A hearing before the Student Hearing Commission is available for cases where suspension or expulsion is possible and the individual or group denies responsibility for a Code of Conduct violation, or there are disagreements pertaining to the facts of the case.

A hearing before the Student Hearing Commission may not be available during dead week, final examinations, breaks, Summer Term, or other periods when a timely hearing is not possible.

- The Student Hearing Commission is comprised of a minimum of eight faculty appointed by the President; and three students appointed by student government, and the Dean of Students (ex-officio member).
- A quorum of at least five members (one of which must be a student) is needed to hold the hearing.

- The Dean of students, or their designee, will be present as a non-voting participant. Their role will be to facilitate dialogue between the hearing panel and the students involved, direct the attention of the parties to relevant points, act as an adviser to the hearing panel and answer procedural questions as needed.
- If an attorney accompanies the charged student or the reporting party at the hearing, the University may also elect to have an attorney present. The University's attorney shall serve as a non-voting observer and adviser to the hearing panel. Any adviser, including an attorney, is limited to advising the student.
- In cases of sexual harassment and sexual misconduct, the Title IX investigator will present an investigation report as part of the hearing proceedings. The investigator will present the report and answer questions. The role of the investigator is to serve as an unbiased party conducting a thorough investigation of all allegations of sexual harassment or sexual misconduct. The investigation report is a compilation of facts, not a verbatim report, and is not appealable or rebuttable.

### **Pre-Hearing Procedures**

1. Student Hearing Commission members will be asked for their availability to participate in an upcoming hearing.
2. The Office of Student Affairs will prepare and send a written notice to the charged student or group and the reporting party at least five University working days before the hearing. If expulsion is a possibility, ten University working days' notice is required. The written notice will be delivered by one of the following methods: (1) hand delivery to the student, (2) sent electronically to the student's institutional email address (oit.edu email), or (3) sent by U.S. mail to the student's last known address as filed in the Registrar's Office. Students are responsible for providing and maintaining a current local address with the Registrar's Office. The notice will include:
  - a. The date, time, place, and nature of the hearing;
  - b. Reference to the sections of the Code of Conduct involved;
  - c. A brief explanation of the alleged violation including the approximate date, time, and place where the alleged violation occurred;
  - d. Names of witnesses, if known;
  - e. Acts alleged to constitute a violation;
  - f. Whether the student may face expulsion for the violation;
  - g. An explanation of the right to be accompanied by an adviser, including that the adviser's role is to advise and support the student. The adviser may not present the case, question relevant parties, or make statements during the proceedings. The student must notify the Office of Student Affairs two University working days before the hearing if they will be accompanied by an attorney. In such cases, the University may elect to have an attorney in attendance.
3. The Dean of Students, or designee, will be available to meet with the reporting party and the responding party, separately or together, to discuss and explain the hearing procedures and answer questions.

No less than three University working days in advance of the hearing, the charged student and the reporting party will each provide to the Office of Student Affairs copies of documentary evidence to be presented at the hearing and the names of witnesses who will be called. Each student is responsible for notifying witnesses of the date, time and location of the hearing and for enlisting their witnesses' cooperation and willingness to attend the hearing. At least three University working days before the hearing, the charged student and the

reporting party have the right to access documentary evidence to be presented at the hearing, by prior appointment.

### Hearing Process

The purpose of the hearing is to provide a forum where all the evidence and testimony can be presented, where questions can be asked of all parties, and where the hearing panel can deliberate and decide by a preponderance of the evidence (meaning that it is “more likely true than not”) that a violation of the Code of Conduct did or did not occur. Except however, to impose the sanction of expulsion, the standard of proof at the hearing for imposition of that sanction shall be “clear and convincing” evidence (“substantially more likely true than not”). Formal rules of process, procedure, and technical rules of evidence, such as those applied in criminal or civil court, are not used in student conduct proceedings. Deviations from prescribed procedures will not necessarily invalidate a decision or proceeding unless significant prejudice to the student or the University may result.

- To protect the privacy of all parties and in accordance with FERPA (Family Educational Rights and Privacy Act), hearings will be closed.
- Both sides have the right to present witnesses who will be subject to questioning by the hearing panel. Questioning by the reporting party or the accused is permitted at the discretion of the hearing panel so long as it is not threatening or harassing.
- If the accused is found responsible for violating the Code of Conduct, then in those cases involving a victim, that victim may submit an impact statement.
- If the charged student elects not to appear for the hearing, the hearing will be held in their absence. Failure to appear will be noted without prejudice. Findings will be based on information presented at the hearing.
- Material witnesses will be present during the introductory comments of the hearing, including the honesty statement\*, at which point they will be excused until time to give their testimony. Witnesses will be excused upon completion of testimony and questioning, but they may be asked to remain available for recall. The reporting party and responding party remain throughout the hearing.
- At the conclusion of the hearing, all parties will be dismissed except for the hearing panel so they may deliberate and reach a decision.
- A student’s past disciplinary record will be revealed to the hearing panel only if the accused is found responsible for the violation of the Code of Conduct under consideration. If the student raises the issue of past behavior during the hearing, the issue is then open to discussion.
- If the hearing panel concludes that a violation did occur, the panel decides what disciplinary action is appropriate.

The order of presentation at the hearing will be as follows:

1. Purpose of the hearing provided by the chair of the hearing panel.
2. The reporting party may present an opening statement.
3. The responding student may present an opening statement.
4. The Title IX investigator will present the investigation report and answer related questions in cases of sexual misconduct.
5. The reporting party will present evidence and call witnesses.

6. The responding student will present evidence and call witnesses.
7. At the conclusion of each witness statement, the witness may be questioned by the hearing panel, the representative from the Office of Student Affairs, the accused student either directly or indirectly, and the reporting party, either directly or indirectly.
8. The reporting party may make a closing statement.
9. The responding student may make a closing statement.
10. All parties are dismissed for hearing panel deliberation.

The hearing may accommodate concerns for personal safety, well-being or fears of confronting the reporting party, accused student, or other witnesses. Procedures or the hearing environment may be modified as determined in the sole judgment of the Vice President for Student Affairs, or designee, to be appropriate.

*Honesty statement:* The University expects that all information presented will be truthful and accurate. If false information is willfully provided, a student will be in violation of Section III of the Code of Conduct and may be subject to disciplinary action.

### **Hearing Panel Deliberations and Decision**

1. The hearing panel will deliberate and, by majority vote, find whether violation(s) of the Code of Conduct has or has not likely to have occurred based on the evidence presented. To affirm a charge and impose a sanction of expulsion, the panel must find that there was clear and convincing evidence that the violation occurred. In all other cases, to affirm a charge and impose a sanction, the panel must find that a violation occurred by a preponderance of the evidence (i.e., more likely true than not).
  - a. The panel may find that the evidence was not sufficient to establish that a violation of the Code of Conduct, as charged, was committed and dismiss the case.
  - b. The panel may find that the evidence submitted was sufficient to affirm the charges and impose a sanction commensurate with the offense.
2. The hearing panel decision will be communicated in writing to the Office of Student Affairs, which will notify the responding party, and if appropriate, the reporting party in writing within two business days. The notification letter will include findings of fact, sanction(s) imposed (if any) and the rationale for the decision. The notification letter will be delivered by one of the following methods: hand delivery to the student; sent electronically to the student's institutional email address (oit.edu) or; sent by U.S. mail to the student's last known address as filed in the Registrar's Office. Students are responsible for providing and maintaining a current local address with the Registrar's Office. The notification letter may also be picked up from the Office of Student Affairs within two working days of the hearing.
  - a. The reporting party will not be notified of the outcome except in cases involving allegations that a crime of violence or non-forcible sex offenses, victims are entitled to know the results of any disciplinary proceedings. Both the accused and reporting party will be notified in writing of the results of any hearing involving such allegations. Victims of a crime of violence, sexual assault, non-forcible sex offense, or stalking will be provided with notification in writing of the outcome of the disciplinary hearing, including the sanctions imposed against the alleged perpetrator. Victims of sexual harassment will be provided with notification in writing of the final outcome of the disciplinary hearing, including those sanctions that directly relate to the harassed student (e.g., no contact order, suspension, expulsion, etc.).



## Appeal Procedure

An appeal is a review of the record of the original hearing, not a new hearing. It serves as a procedural safeguard for the student. The burden of proof is on the appellant, who must show that one or more of the listed grounds for appeal has merit. A student or group will not appear before the review panel unless specifically requested to do so by the panel.

Any outcome decided by the Student Hearing Commission may be appealed to the Vice President of Student Affairs by either the responding party or the reporting party.

1. Students will be asked for their current address at the original hearing. A letter containing the hearing panel's decision will be mailed to this address by certified mail, delivered in person or sent electronically to the institutional email address (oit.edu) within two working days following the hearing. Students may also pick up a copy of the decision at the Office of Student Affairs. Appeals must be submitted in writing to the Office of Student Affairs by 5 p.m. within seven University working days of the original hearing. Failure to file an appeal within the prescribed time constitutes a waiver of any right to an appeal.
2. The appeal must cite at least one of the following Appeals Criteria as the reason for appeal and provide supporting argument(s) as to why an appeal should be granted on these grounds. Appeals grounds include the following:
  - a. The hearing was not conducted in conformity with prescribed procedures, and substantial prejudice to the report or the responding party resulted;
  - b. The evidence presented at the previous hearing does not support the finding that was made; that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to support the Panel's findings;
  - c. New evidence that could substantially affect the outcome of the previous hearing has been discovered since that hearing. The evidence must not have been available at the time of the original hearing. Failure to present evidence that was available is not grounds for an appeal under this provision;
  - d. The sanction is not appropriate for the violation. This provision is intended to be utilized when a determined sanction is inherently inconsistent with University procedures. Simple dissatisfaction with a sanction is not grounds for overturning a sanction under this provision.
3. The Vice President of Student Affairs will review the record of the original hearing, including documentary evidence, and issue a finding as to the merits of the criteria cited as the reason for appeal.
  - a. If the appeals panel finds there is no merit to any of the grounds appealed, it will issue a finding as such.
  - b. If the appeals panel is presented with new evidence that could not have been presented at the original hearing, the matter may be remanded to the original hearing panel for a rehearing.
  - c. If the sanction is determined to be inappropriate for the violation, the appeals panel may recommend the sanction be modified by the vice president for student affairs and state the reasons for that recommendation.

4. If the Vice President of Student Affairs finds there is no merit to any of the submitted grounds for appeal, that decision shall be final. The final decision will be communicated in writing by the Office of Student Affairs to the reporting party and the responding party. The decision will normally be communicated within ten University working days of receiving the written recommendation, but it may take longer during University recesses, in a complex case, or other reasonable circumstances.
5. If the Vice President of Student Affairs recommends modifying the outcome or the sanction, the final decision will be communicated in writing by the Vice President of Student Affairs to the reporting party and the responding party. The decision will normally be communicated within ten University working days of receiving the written recommendation, but it may take longer during University recesses, in a complex case, or other reasonable circumstances. The decision of the University president shall be final.

### Disciplinary Responsibility

The responsibility for the campus discipline system is delegated from the State Board of Higher Education to the Vice President for Student Affairs through the President. The Vice President for Student Affairs further delegates authority for student conduct to the Dean of students, Assistant Dean of Students, Housing and Residence Life, and designated hearing officers. The goal is to resolve cases closest to the point of infraction for maximum educational benefit.

The University considers the disciplinary process to be an educational opportunity for the student that can promote growth in personal understanding of one's role as a member of an educational community and a better understanding of one's rights, responsibilities, and privileges therein. Refer to the Disciplinary Process for additional details.

### Disciplinary Files and Records

Reported misconduct will result in the development of a disciplinary file in the name of the accused student. If the student is found not responsible for the charges, the file will not constitute a disciplinary record. Such files will be maintained for seven years, and then will be destroyed. The files of students found responsible for charges against them, with sanctions less than suspension or expulsion, will be maintained in the Office of Student Affairs for seven years from the calendar year of record, and then will be destroyed. Records of cases in which suspension or expulsion from the University occur, are kept indefinitely.

All disciplinary records are private and may not be disclosed in whole or in part except as provided by law or by the written authorization of the student, under legal compulsion, or where the safety of other persons may be involved. Disciplinary records are maintained separate from the student's academic record but are part of the student's educational record.

### Disciplinary Sanctions

Although not intended to be inclusive, the following are possible sanctions that may be imposed either singularly or in combination for a student or group/organization if a violation of the Student Code is found.

**Admission and Reinstatement Requirements** are conditions for admission given to students whose admission requires a clearance from the Office of Student Affairs.

**Alternative Dispute Resolution** is a process by which a respondent is assigned to resolve an issue that has come to the Office of Student Affairs collaboratively with the other people involved instead of having a hearing officer issue other sanction(s). Any instances of alleged sexual misconduct and some other alleged violations are inappropriate for alternative dispute resolution.



**Campus No Contact Order** is a prohibition from contact with another person in any form (including contact in person, by phone, electronically, written document, or through another person). Violating a University-imposed No Contact Order may result in suspension or expulsion from the University.

**Cancellation of Enrollment** occurs when a previous hold has been cleared with the condition that the enrollment will be canceled for failure to meet the conditions of the clearance. If canceled, the refund of tuition or fees will be subject to the University's normal withdrawal policy.

**Class Removal** occurs when a student is dropped from a class or moved to another section of a class. The Dean of Students or the Assistant Dean of Students has the right to restrict a student from class pending a hearing for alleged violations of the Code of Conduct occurring in the classroom that substantially interfere with teaching or other students' ability to learn.

**Conduct Probation (Level 1)** is a specified period of time during which the student is placed on formal notice that they are not in good standing with the University and that further violations of University regulations will lead to suspension or expulsion from the University. Probation may include additional conditions or sanctions. The probationary status and conditions are documented in writing.

**Conduct Probation (Level 2)** adds to Level 1 the stipulation that students are prohibited from participating in any extracurricular activities not directly associated with academics (e.g., intramural sports, attending athletic events, student organizations/clubs/associations, leadership positions within housing or fraternities/sororities or other organizations). Students must apply to get off Conduct Probation Level 2 by submitting documentation of their significant proactive efforts to become good citizens of the community and engage in responsible, productive behavior.

**Deactivation** is a group's loss of privileges, including Oregon Tech recognition, for a specified time period.

**Deferred suspension** is suspension that may be deferred pending successful completion of the conditions to remain in school. Failure to complete the conditions in the given period will result in suspension from the University. Notation on the transcript is not made; however, a record of the action is maintained in the student's record in the Office of Student Affairs for the entire seven-year period for which such records are retained.

**Disciplinary Expulsion** is termination of student status for an indefinite period. The conditions for readmission, if any, shall be stated in the hearing outcome letter. Notification of disciplinary expulsion will be provided in writing. Any refund of tuition or fees will be subject to the University's normal withdrawal policy.

**Disciplinary Suspension** is the exclusion from enrollment in classes and other privileges or activities for a definite period and until the conditions which are set forth in the hearing outcome letter are met. Notification of disciplinary suspension will be provided in writing.

**Enrollment Hold** is a "hold" on enrollment privileges for failure to meet with the dean of students or other hearing officer or for failure to comply with assigned conditions or complete assigned sanctions. This hold can prevent the adding or dropping of classes or enrolling for subsequent terms.

**Fines** are a financial assessment imposed by the hearing officer or panel.

**Graduation Hold** is a hold on a student's participation in graduation exercises and diploma for failure to respond to a request to meet with the Dean of Students or other hearing officer, or for noncompliance with disciplinary sanctions. The Vice President for Student Affairs may place a graduation hold.

**Interim Suspension (Housing)** occurs when the conduct or behavior of a student residing in Oregon Tech on-campus housing is determined by the Vice President for Student Affairs, the Director of Housing and Residence Life, or the Dean of Students to be a threat to self or others, the ability to live in the on-campus community may be immediately suspended pending the outcome of a hearing. During an interim housing suspension, the student is immediately removed from on-campus housing and is not to re-enter any campus residence hall until a hearing is held and a decision regarding the pending complaint has been made.

**Interim Suspension (University)** is an immediate suspension from the University upon written notice from the Vice President for Student Affairs or the Dean of Students. Interim suspension is imposed without a hearing, pending further disciplinary proceedings. The Vice President for Student Affairs or the Dean of Students will base their decision on whether the allegation of misconduct is reliable and severe enough that the continued presence of the student on the University campus could reasonably be disruptive and/or pose a threat to the physical well-being of any member of the campus community or for reasons relating to the safety of any University property or any University function. Interim suspension usually includes physical exclusion from the campus. A student suspended on an interim basis will be given a prompt hearing, set within five working days from the date of the interim suspension notification letter. In cases involving incarceration by law enforcement authorities, a hearing on whether the interim suspension should be maintained pending a hearing on the underlying violation may be set within a reasonable time after the student becomes available. A student may request, in writing, that the hearing be scheduled sooner than five working days. The interim suspension will remain in effect until a final decision has been made on the pending report through a hearing or until the Vice President for Student Affairs or the Dean of Students determines that the reason for imposing the interim suspension no longer exists.

**Loss of Privileges** is a limitation on a student's privileges for a period and may include but not be limited to the denial of the use of facilities or access to parts of campus, denial of the right to represent the University, or denial of participation in extracurricular activities.

**Parental Notification** is permitted by the federal Family Educational Rights and Privacy Act when students under 21 are found responsible for an alcohol or drug-related violation. Students are generally notified when parents may be contacted and are given the opportunity to contact the parents first.

**Housing Expulsion** is the permanent separation of a student from the on-campus community.

**Housing Suspension** is the separation of a student from the residence halls for a specified period, after which the student is eligible to return. Conditions for readmission may be specified.

**Restitution** is the actual cost of repair or replacement for loss, damage or injury to property or person, such as medical bills.

**Revocation of Degree** is when an academic degree previously awarded by the University may be revoked on proof that it was obtained by fraud or that a significant part of the work submitted in fulfillment of, and indispensable to, the requirements for such degree was plagiarized. The Academic Progress and Petitions Committee may, upon appeal of a university graduate subjected to a degree revocation, stipulate the requirements for legitimately obtaining the degree.

**Voluntary Project** is community service or an education class or project beneficial to the individual, campus or community.

**Warning** is an oral or written warning that further violations of University regulations could result in additional disciplinary action.