

ROGERS STATE UNIVERSITY

# Student Rights and Responsibilities Code

The purpose of the Student Rights and Responsibilities Code (referred to as "Code") is to establish specific student rights and responsibilities while maintaining an environment conducive to the University's educational mission.

## I. Student Rights

Students of Rogers State University are guaranteed certain rights by the constitutions of the United States and the State of Oklahoma. In recognition of those rights and in keeping with the values underlying them, Rogers State University respects the following student rights:

1. To pursue an education as long as the University's applicable academic standards, policies, regulations and applicable laws are followed;
2. To certain procedural due process, including notice and an opportunity to be heard;
3. To a prompt, fair, and impartial process during University investigations and proceedings, from an initial investigation to the final result;
4. In cases involving sexual misconduct, the complainant/ reporting party and the respondent have the right to have the investigation and proceedings conducted by officials with annual training on issues related to dating violence, domestic violence, sexual violence, and stalking, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
5. To request appropriate action from the administration for any violation of a right guaranteed by this Code;
6. To establish or disseminate publications free from any censorship or other official action controlling editorial policy or content, in accordance with applicable regulations and University policy;
7. To invite and hear any speaker of choice on any subject, in accordance with applicable regulations and University policy;
8. To use campus facilities, in accordance with applicable regulations and University policy;
9. To peaceably assemble, to demonstrate, inform, or protest, in accordance with applicable regulations and University policy;
10. To be secure in his/her possessions, against invasion of privacy, and unreasonable search and seizure;
11. To form, join and participate in any student organization or group without regard to race, color, national origin, sex, sexual orientation, gender identity, gender expression, genetic information, age (40 or older), religion, disability, political beliefs or status as a veteran. Provided, in accordance with Oklahoma state law, a religious student association may choose to limit its membership or leadership based on the sincerely held religious beliefs, observances, or practices of the group; Provided further pursuant to Title IX, certain tax-exempt nonprofessional, social fraternities and sororities may be permitted to restrict membership based on sex; and
12. Not to be charged more than once for one incident by the Office of Student Conduct.

## II. Student Responsibilities

Students of Rogers State University are responsible for complying with all local, state, and federal laws. As members of the University community, students are also responsible for familiarizing themselves with University policies and regulations when applicable.

In addition, students involved in Student Conduct proceedings initiated under this Code, whether as parties, witnesses, or panelists, have a duty to cooperate and discuss the incident with appropriate University officials, adhere to stated deadlines, attend scheduled meetings, provide documentation as requested and participate in all University proceedings. Failure to fulfill these responsibilities may result in a decision being made without the benefit of the student's participation or may result in a student being charged with failing to comply with the direction of a University official. Nothing herein shall be interpreted as abridging one's right to be free from self-incrimination.

Students are responsible for meeting the University's minimal standards of appropriate conduct and may be subject to Student Conduct proceedings for engaging in prohibited conduct. The following prohibited conduct is inclusive, but not exhaustive:

1. Academic, Ethical, or Professional Codes
  - a. Any violation of the Academic Integrity Code. Complaints alleging prohibited academic misconduct must be directed to Academic Policies & Procedures.
  - b. Any violation of other college, graduate, professional, ethical, or other applicable academic codes or licensure board.
  
2. Alcohol
  - a. Any violation of the University's Alcohol Policy.
  - b. Possessing, using, providing, manufacturing, distributing, or selling alcoholic beverages in violation of law or University policy.
  - c. Use or possession of alcoholic beverage(s) by an individual under the age of twenty-one
  - d. (21). Driving while under the influence of alcohol.
  - e. Intoxication to the point of endangering oneself or another person's health or safety, regardless of age.
  - f. Possessing or presenting false identification to a University official or local, state, federal law enforcement.
  - g. Providing alcohol to individual(s) under the age of twenty-one (21).
  
3. Complicity
  - a. Attempting to commit, knowingly permitting, or being an accessory by knowingly aiding, conspiring, or assisting others with any act prohibited by this Code.

4. Disorderly Conduct and Unwanted Behaviors

- a. Disorderly conduct: Unreasonable and material behavior that is disruptive, lewd, or a breach of peace, including inciting others to do so.
- b. Disruption or obstruction of a University activity or office: Unreasonable and material disruption or obstruction of a University activity such as teaching, research, recreation, meetings, public events, programs, services, administrative functions, and conduct proceedings.
- c. Harassment: Behavior that is severe, pervasive, or persistent to a degree that a reasonable person would not tolerate and effectively denies or interferes with equal access to University education, employment, benefits or privileges. This includes verbal abuse, threats, intimidation, stalking, and coercion. In addition, harassment may be conducted by a variety of mediums including physical, vocal, written, or electronic.
- d. Physical assault: Any physical force, causing, or that could reasonably cause, bodily harm upon any person including assault, fighting, brawling, or restraining someone against their will.
- e. Threatening behavior: A serious expression of intent to commit an act of unlawful violence against a particular individual, identifiable group, or damage to property. Threatening violence, including intimidation, causes reasonable fear of injury to the health or safety of any person, group, or property.

5. Drug

- a. Possessing, using, providing, manufacturing, distributing, or selling drugs or drug paraphernalia in violation of law or University policy. This includes a prohibition of any marijuana use or possession, including medical or recreational marijuana, on University premises or while participating in University sponsored activities.
- b. Driving while under the influence of drugs.
- c. Misuse of legal substances such as using general products as intoxicants or "means to get high" and inhaling or ingesting a substance other than in connection with its intended purpose.
- d. Possessing, using, providing, distributing, or selling prescription drugs by persons other than the person to whom the drug is prescribed or use not in accordance with the prescription.

6. Failure to Comply

- a. Failure to comply or complete a University sanction in a satisfactory manner: Failure to adhere to sanctions, safety and interim measures, or engaging in other prohibited conduct while on disciplinary probation or suspension.
- b. Failure to comply with a University official: Disobeying instructions or directions by a University official who is acting in good faith of their duties including failing to identify oneself, respond to University correspondence, or attend University scheduled meetings.
- c. Failure to maintain records: Failure to keep the University notified of contact information, including phone numbers, emergency contacts, and email.

7. False and Misleading Information

- a. Acts of dishonesty, including as part of proceedings under this Code.
- b. Bribery or acceptance of bribes.
- c. Forging or altering another person's signature.
- d. Forging, altering, tampering, falsifying, or misusing a University record or document, submitting false information, omitting requested information from a University record or document, or possessing any of these records or documents.
- e. Knowingly initiating a false report to the University.
- f. Manufacturing, possessing, or presenting false identification to a University official or local, state, or federal law enforcement or using the identity of another person.

8. Hazing

- a. Engaging in activity that recklessly, knowingly, or intentionally endangers the mental or physical health, safety, or welfare of an individual for the purpose of initiation, participation, admission, holding office in, or maintaining membership or affiliation, regardless of the individual's consent or lack of consent, including state and federal law, but not limited to:
- b. Physical harm such as paddling, whipping, branding, electric shock, placing harmful substances on the body, sleep deprivation, exposure to extreme conditions, calisthenics, forced consumption of food, liquor, drug, or other substances.
- c. Degrading behavior that causes ridicule, humiliation, embarrassment, or adversely affects the dignity of an individual.
- d. Interfering with an individual's ability to participate in or benefit from the services or activities of the University, employment, or religious observances.
- e. Activity resulting in the destruction, misuse, or removal of another's property.
- f. Activity that causes an individual to engage in behavior that may violate the Code, University policy, or local, state, or federal law.

9. Misuse, Defacement, or Damage of Facilities and Property

- a. Failure to adhere to any University Information Technology policies or standards, including unauthorized use, access, or entry of an information technology resource owned or managed by the University such as computer systems, networks, databases, software, accounts, data, or facilities. Using University information technology resources for illegal or prohibited activities.
- b. University property: Intentional or reckless destruction, defacement, or damage to University equipment, property, furniture, facilities, and buildings or using in a manner inconsistent with its intended use.
- c. Property of another: Intentional or reckless destruction, defacement, or damage to another's property, or using that property in a manner inconsistent with its intended use.

10. Retaliation

- a. Taking any adverse action against a person because of participation or non-participation in a report, investigation, claim, or grievance process.

11. Safety, Security, and Emergency Response

- a. Activities that jeopardize University-related property, building security and safety.
- b. Arson: Attempting to ignite or the action of igniting University or personal property on fire by intent, reckless behavior, or failure to exercise reasonable care that results or could result in personal injury, property damage, or damage to premises.
- c. Endangerment of others: Unlawfully endangering the health, safety, or privacy of oneself, others, or animals.
- d. Explosive materials: Unauthorized possession or use fireworks, dangerous chemicals, and explosive materials, ignition, or detonation of anything which could cause damage to persons or property, or disruption by fire, smoke, explosion, noxious odors, stain, or corrosion.
- e. False reporting or misuse of emergency response: Falsely reporting an incident or emergency of any type including setting off a false fire alarm.
- f. Flammable materials: Unauthorized possession or use of candles, torches, incense or incense burners, other open flame apparatus, extension cords, gasoline, propane tanks, or lighter fluid on University premises.
- g. Interfering with, obstructing, or disrupting emergency responses: Failing to evacuate during an emergency or drill, impairing an orderly evacuation, resisting arrest, blocking, or barring an exit; failing to abide by the directions of police, fire, emergency medical personnel, or University officials.
- h. Interfering with, obstructing, or disrupting the free flow of pedestrians or other traffic.
- i. Manipulating safety equipment: Tampering with, impairing, disabling, relocating, or misusing fire or safety protection systems such as smoke detectors, fire extinguishers, sprinklers, cameras, doors, signs, or alarms.
- j. Traffic and parking: Any violation of University traffic and parking regulations, tampering with, removal, or theft of wheel locks, barricades, traffic cones, or traffic control signs or devices.

12. Institutional Equity Policy Violations

- a. Any violation of the Non-Discrimination Policy.
  - i. The University, in compliance with all applicable federal and state laws and regulations, does not discriminate on the basis of race, color, national origin (including actual or perceived shared ancestry or ethnic characteristics), sex (see Sexual Misconduct, Discrimination, and Harassment Policy), sexual orientation, marital status, genetic information, gender identity/expression (consistent with applicable law), age (40 or older), religion, disability, political beliefs, or status as a veteran in any of its policies, practices, or procedures. This includes but is not limited to admissions, employment, housing, financial aid, and educational services.
  - ii. As defined by the International Holocaust Remembrance Alliance, "Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jews or non-Jews individuals and/or their property,

toward Jewish community institutions and religious facilities.” The Institutional Equity Office (IEO) investigates allegations of antisemitism using the standards applicable to allegations of discrimination or harassment based on race, color, and national origin (including shared ancestry or ethnic characteristics).

- iii. Under the authority of the IEO and the Division of Student Affairs, complaints alleging violations of the Non-Discrimination Policy must be directed to the Title VI Coordinator.
- b. Any violation of the Sexual Misconduct, Discrimination, and Harassment Policy.
  - i. Under the authority of the IEO and the Division of Student Affairs, complaints alleging Prohibited Sexual Misconduct must be directed to the Title IX Coordinator.

### 13. Theft

- a. Using, depriving, removing, or possessing the property or services without entitlement or authorization through engagement of theft or attempted theft.

### 14. Unauthorized or Attempted Entry or Exit

- a. Unauthorized entering, exiting, occupying, or using of any University owned or managed facilities, property, or property belonging to another.
- b. Unauthorized possession, duplication, or use of keys or access cards, lock combinations, codes, or passwords to any University owned or controlled premises or other public or private property.
- c. Damaging or tampering with doors, locks, or lock boxes; propping open of exterior residence hall or other campus building doors.
- d. Misuse of access privileges to University premises.

### 15. Law, Ordinance, Regulation, Rule, Procedure, or Policy

- a. Law Violations: Violation of local, state, or federal law.
- b. University Policy Violations: Violations of rules, regulations, and policies.

### 16. Weapons

- a. Actual or constructive use, possession, or control of any weapon and munitions of all types, defined as any object used or designed to inflict or attempt to inflict harm or injury or fear of harm or injury including instruments designed to look like any weapon.
- b. Any violation of the OU Board of Regents' Policy: Firearms Policy 3.1.13.

### III. Sanctions

Students of Rogers State University who engage in prohibited conduct are subject to the following sanctions:

1. Verbal Warning: A verbal notice that the behavior was inappropriate. \*
2. Written Warning: A written statement that the behavior was inappropriate, which will remain on the student's University Student Conduct record for a specified period of time or until the student meets certain conditions. \*
3. Disciplinary Probation: A written statement that the behavior was inappropriate, and should subsequent violations occur, the University will take more serious conduct action up to and including suspension or expulsion. This can include exclusion from University affiliated entities, including student organization activities, for a period of time or until the student meets certain conditions. For example, any student on disciplinary probation or subject to a harsher disciplinary sanction shall be ineligible to hold or be elected to an office of any student organization recognized by the University. Similarly, a student on disciplinary probation or subject to a harsher disciplinary sanction may not represent the University in any special honorary role (e.g., debate tournament, athletic competition, etc.). Disciplinary probation must be imposed for a definite term.
4. Educational Sanctions: A specific number of hours of community service, completion of a reflection or research paper, attending educational programs or completing educational training, or other actions as assigned. \*
5. Restitution: Repayment for damages or misappropriation of property. This may include monetary compensation or other related service(s), such as cleaning or restoration. \*
6. Administrative Fee: Administrative fees for educational programs and presentations as well as policy related administrative costs, which are assessed directly to the student's Bursar account. A financial stop may be placed on the student's record if the student fails to pay the administrative fee by the due date. This stop may prevent the student from registering for future terms or adding or dropping courses. \*
7. University-Owned Housing Reassignment or Termination: Reassignment to another University-owned housing unit, exclusion from certain University-owned properties, housing probation, housing disciplinary point(s), or termination of the student's housing agreement.
8. Administrative Trespass: Denial of access to all or a portion of campus, except for limited periods and specific activities with the permission of the appropriate University official, as designated by the University Vice President for Student Affairs or other appropriate administrative official vested with such authority. Should the student enter campus without written permission, the appropriate University official or the campus police may take action.

9. Suspension: Exclusion from the University and all campuses governed by the Board of Regents of the University of Oklahoma for a specific period of time or until the student meets certain conditions, following which the student may be permitted to re-enroll or apply for readmission to the University, as applicable.
10. Expulsion: Exclusion from the University and all campuses governed by the Board of Regents of the University of Oklahoma for an indefinite period of time, a record of which remains on file permanently.
11. Restriction or Denial of University Services: Restricted from use or denial of specified University services, including participation in athletics or other University activities.

\* Except in conjunction with other Student Conduct measures, these sanctions are not appropriate if a student is found responsible for the following violations of the Sexual Misconduct, Discrimination, and Harassment Policy: Sexual Violence, Dating Violence, and Domestic Violence.

## IV. Student Conduct Proceedings

Student Conduct Proceedings are the University's means of affording procedural due process to students who may be sanctioned for engaging in prohibited conduct. The Student Rights and Responsibilities Code Procedures, attached hereto as *Appendix A*, provide a step-by-step explanation of those proceedings.

## V. Direct Administrative Action

A Direct Administrative Action (DAA) is an action that places immediate restrictions upon a student's rights within the University community, up to and including a removal from the University community. A DAA is not a final sanction; it is a temporary measure that may be undertaken during the pendency of appropriate due process. A DAA may be imposed only by the VPSA or other appropriate official vested with such authority when necessary for the welfare or safety of the University community; to maintain order on the campus and preserve the orderly functioning of the University; to stop or prevent interference with the public or private rights of others on University premises; to stop or prevent actions that threaten the health or safety of any person; or to stop or prevent actions that destroy or damage property of the University, its students, faculty, staff, or guests.

When a DAA is imposed, the Office of Student Conduct shall review the facts and circumstances to determine whether Student Conduct Proceedings should be initiated, whether to recommend to the VPSA or designee that the DAA should be lifted, or whether some other University action is appropriate.

## VI. Holds, Records, and Registration

The University may place a Student Conduct hold on a student's records during the pendency of Student Conduct Proceedings. A Student Conduct hold prohibits a student from registering for classes until the Student Conduct Proceedings, including any review procedure, are complete. Upon conclusion of Student Conduct Proceedings, the University may continue a Student Conduct hold on a student's records until the student satisfactorily completes all sanctions.

The University may place a Student Conduct hold on a student's record if a student is suspended as part of the sanctions, prohibiting a student from being admitted to or registering for classes at any campus governed by the Board of Regents of the University of Oklahoma. A Student Conduct hold shall remain in effect until the suspension period is over, the student has complied with all conditions and/or sanctions and has reapplied and been readmitted.

Records relating to non-academic student conduct matters are a part of the student's overall education record; however, Student Conduct charges and sanctions are not noted on official student transcripts, except where academics are incidentally affected (i.e., the transcript for a student suspended during a semester after the add/drop deadline will reflect withdrawal from any courses in which the student is enrolled).

## VII. Authority and Jurisdiction

The Board of Regents of the University of Oklahoma is charged in the Constitution of the State of Oklahoma with governing the University, and nothing in this Code prevents the Board of Regents from establishing or amending rules or procedures in order to fulfill its responsibility. The VPSA shall be vested with the authority to establish and operate a Student Conduct Office. Disciplinary authority and judicial latitude necessary to accomplish the discipline are delegated to the Vice President for Student Affairs. The VPSA or designee has day-to-day responsibility for Student Conduct matters and maintenance of records of all actions taken. The decision of the Vice President for Student Affairs shall be final and not appealable except in cases of interim suspension, suspension, or expulsion, which may be appealed to the Committee on Student Conduct. In cases where resident students are alleged to have violated the Residential Life Handbook and the Code, the Office of Student Conduct will work with the Director of Residential Life to determine which process governs.

The University will initiate Student Conduct Proceedings under this Code within one (1) year from the date that the conduct becomes known to the Student Conduct Office. Provided, however, Student Conduct Proceedings shall be initiated immediately upon receipt of findings from the Office of Institutional Equity. Student Conduct Proceedings may be carried out prior to, simultaneously with, or following civil, criminal or licensure proceedings, at the discretion of the University.

This Code applies to the on-campus conduct of all students and registered student organizations, including conduct using university computing or network resources. The code also applies to the off-campus conduct of students and registered student organizations in direct connection with: academic course requirements or any credit bearing experiences, such as internships, field trips, study abroad, or student teaching; any activity supporting pursuit of a degree, such as research at another institution or a professional practice assignment;

any activity sponsored, conducted, or authorized by the university or by registered student organizations; any activity that causes substantial destruction of property belonging to the university or members of the university community, or causes or threatens serious harm to the safety or security of members of the university community; or any activity which could constitute a criminal offense as defined by local, state or federal law, regardless of the existence or outcome of any criminal proceeding.

This Code may be applied to behavior conducted online, via e-mail, text, or other electronic medium.

## VIII. Review of the Student Conduct Code

The VPSA, in collaboration with each campus Provost, will appoint at least five (5) persons, including campus Student Conduct representatives and presidents of each campus student government association to review and make recommendations for the revision of this Code every three (3) years, or sooner, if needed. The Committee will solicit input from representatives of the legislative bodies of each campus, and campus student associations as needed. The Committee shall share this input, together with any other observations or findings of the Committee, with the VPSA. The VPSA shall consider all input and recommend changes, if any, to the Board of Regents.

The VPSA, in consultation with the Office of Legal Counsel, is authorized to amend this Code as may be required for compliance with applicable federal, state, local law, applicable regulations, or University policy.

# APPENDIX A

## I. Procedural Flexibility

For the purposes of these procedures, a "day" shall mean a University business day unless otherwise stated. The Chair of the Hearing Panel may extend or accelerate existing timelines, as well as establish and enforce additional deadlines not stated in these procedures as necessary for prompt and effective case resolution. The University Vice President for Student Affairs or authorized designee ("VPSA"), in consultation with legal counsel, may modify these procedures at any time, as a whole or on a case-by-case basis, where necessary to comply with applicable law, regulation, guidance, or as deemed appropriate. Technical departures from these procedures will not invalidate a decision, recommendation, or proceeding unless they have prevented a fair determination of the issues.

## II. Commencement of a Conduct Process

Allegations that a student has engaged in conduct that, if true, would constitute Prohibited Conduct under the Student Code of Rights and Responsibilities ("Code") should be referred to the Office of Student Conduct. The Director of Student Conduct or designee ("Student Conduct Officer") shall review the allegations and determine whether to initiate disciplinary proceedings ("Student Conduct Proceedings"). If the Student Conduct Officer determines that, even if true, the alleged conduct would not constitute Prohibited Conduct under the Code, the matter shall be concluded. If the Student Conduct Officer determines that the alleged conduct, if true, could constitute Prohibited Conduct under the Code, he or she shall notify the student of the allegations and afford the student an opportunity to be heard, as set forth more fully below.

### A. Student Conduct Notice

A Student Conduct Notice shall be delivered to the student who is the subject of the allegations via the student's University email address. Notice to the student will be considered furnished once a Student Conduct Notice is delivered to the student's University email account. The Student Conduct Notice shall include:

1. A description of the alleged misconduct;
2. A citation to the Code provisions that are alleged to have been violated;
3. A brief explanation of the Student Conduct process; and
4. An explanation that the student must set up an administrative review meeting ("Mandatory Meeting") with the Student Conduct Officer within five (5) days, or such shorter time as may be specified.

A "no contact" order may be issued in the Student Conduct Notice. A "no contact" order is a non-disciplinary directive to avoid contact with one or more members of the University Community during an investigation and any attendant Student Conduct Proceedings. If a "no contact" order is issued, it is the responsibility of the student not to have any contact with the individual(s) named, directly or through third parties, as specified in the order. Failure to comply with this order may result in disciplinary action.

## B. Mandatory Meeting

The Student Conduct Officer will meet with the student to explain the Student Conduct process, allow the student an opportunity to respond to the allegations contained in the Student Conduct Notice, and answer any questions the student may have. The student may be accompanied by an advisor or attorney of his or her choosing. Individuals are not required to answer any questions that are asked; however, any information an individual chooses to provide must be true and correct to the best of their knowledge. An individual who intentionally provides false or misleading information will be charged with falsifying information. Additionally, a pattern of lying or fabrication will be considered when imposing sanctions.

When the Student Conduct Officer determines that prompt action is essential (e.g., during University orientation, toward the end of the semester, the student is nearing graduation, or there is substantial concern for the health, safety, or welfare of a member of the University community as with a Direct Administrative Action), the Student Conduct Officer may require that the charged student meet within one (1) day of receipt of the Student Conduct Notice if the student resides on campus, or two (2) days if the charged student resides off campus. The University may give notice in these cases by the telephone number provided in official University records or by the student's University email address.

During the Mandatory Meeting, the Student Conduct Officer shall consider the student's response to the allegations and any additional information the student has presented. The Student Conduct Officer shall then determine whether to charge the student with engaging in Prohibited Conduct under the Code. During the Mandatory Meeting, or as soon afterward as is reasonably possible, the Student Conduct Officer may:

- Dismiss the charges against the student on the basis that the student did not engage in Prohibited Conduct under the Code;
- negotiate a resolution with the student, whereupon the matter shall be concluded, subject to the student's timely completion of the agreed terms of the negotiation;
- determine to proceed with charges against the student as set forth in the Student Conduct Notice; or
- prepare a modified Notice of Student Conduct, based upon the student's response or other information obtained, and proceed with charges against the student.

Upon determining to proceed with charges, the Student Conduct Officer will recommend disciplinary sanctions and notify the student in writing within five (5) days of the Mandatory Meeting. If the charged student denies having engaged in Prohibited Conduct under the Code, or believes that the recommended disciplinary sanction is excessive, the student may appeal the determination to the VPSA as outlined below within five (5) days of receiving the written determination letter. Alternatively, if the recommended disciplinary sanction is suspension or expulsion, the student may request a hearing within five days (5) of receiving the written determination letter.

# 1. Acceptance of Responsibility

If, during the Mandatory Meeting, the student agrees that he or she engaged in Prohibited Conduct under the Code, the Student Conduct Officer will discuss the conduct and any relevant circumstances with the student. After considering the student's response and any additional information the student has presented, the Student Conduct Officer shall determine recommended disciplinary sanctions. If the student accepts responsibility and agrees to the imposition of recommended disciplinary sanctions, the Student Conduct Officer shall make a finding that the student has violated the Code, and that the student has accepted responsibility for engaging in Prohibited Conduct. The matter shall be concluded, subject to the student's timely completion of designated sanctions.

# 2. Failure to Respond / Default

If the student does not schedule or attend a Mandatory Meeting by the date specified in the notice, or fails to follow instructions or submit requested documentation or information within a reasonable specified amount of time, the Student Conduct Officer may decide the outcome of the case in the student's absence. In such cases, the student, by failing to respond or participate, shall be in default and will have waived any right to further process.

## c. Investigations

The Student Conduct Officer shall review the facts and circumstances associated with the alleged conduct. This review may frequently consist of a mere informal inquiry into the source of the complaint, together with the student's response. In other cases, particularly where there is potential for sanctions of suspension or expulsion, where there are multiple accounts of the facts from witnesses, or where the facts may not be readily discerned, the Student Conduct Officer may determine that further investigation is required. Such investigation may take place before or after the Mandatory Meeting, or in some combination of the two. Where appropriate in light of the unique facts and circumstances of the case, the Student Conduct Officer shall modify the Student Conduct Notice or recommend disciplinary sanction based on the evidence discovered in the investigation.

Allegations that a student has engaged in conduct that, if true, would constitute a violation of the University's Sexual Misconduct, Discrimination, and Harassment Policy shall be promptly referred to the University's Title IX Coordinator.

III. **Appellate Review:** Student Conduct or the charged student may appeal the Student Conduct Officer's determination or sanction or the determination of the Hearing Panel within five (5) days of notice of the decision. The appeal shall be in writing and submitted to Student Conduct and the opposing party. Upon request for an appeal, Student Conduct shall immediately request that the VPSA review the appeal. The VPSA shall have the authority to:

A. Affirm the initial decision.

- B. Find that improper procedures were used that significantly prejudiced the University or student. In this case, the VPSA can refer the case back to Student Conduct Office or the Hearing Panel, as applicable, with a recommendation on how to correct the procedures.
- C. Reduce or increase the sanction, if the VPSA determines that the sanction imposed was too severe or too lenient, given the nature of the violation and/or the circumstances. A sanction should not be increased or decreased unless there is compelling justification to do so. Merely disagreeing with the decision of the Student Conduct Officer or the Hearing Panel is not a compelling justification.
- D. Find that (i) Student Conduct or the parties have presented information that would have been material to the outcome of the case, had the information been presented at the hearing, and (ii) the information was not known and could not reasonably have been known to the person appealing at the time of the original hearing. In this event, the VPSA will refer the case back to the Student Conduct Office or to the Hearing Panel for reconsideration in light of the new information.

The VPSA shall in collaboration with the appropriate University official, base a decision on the record and shall notify the parties of the decision within five (5) days of receipt of the request for appeal and receipt of the record. In some cases, the VPSA may require more time to reach a decision, and in such cases the parties will be notified that a decision will be reached as soon as reasonably practicable. The VPSA's decision is final. If the VPSA does not act or otherwise notify the parties of the need for more time to reach a decision, within five (5) days of the request for appeal and receipt of the record, the decision of the Hearing Panel is final.

## IV. Hearing Process

The Hearing Process offers charged students the opportunity to present their cases before an impartial hearing panel comprised of other members of the University community. The proceeding is designed to be administrative and educational in nature, capable of being navigated by University students. While many of these procedures draw from traditional legal principles of fairness and due process, the proceedings themselves are not intended to simulate a court of law. The Hearing Process is not a forum for challenging the legality or justification of any provision of the Code or these Procedures.

### A. Impartial Hearing Panel

**Hearing Pool:** A Pool for each campus shall be established upon the recommendations of the faculty senate Chair, staff senate Chair, and student body president. The Pool may consist of a mixture of faculty, staff, and students for a pool of at least seven (7) representatives. Each member of the Pool shall serve a three-year term and may be reappointed or removed at any time. Comprised of three (3) faculty members appointed by the Faculty Senate, two (2) staff members appointed by the University President, and two (2) students recommended by the Student Government Association and approved by the VPSA, the Hearing Pool will hear appeals of non-academic misconduct cases resulting in interim suspension, suspension, or expulsion. The Committee chair will work closely with the VPSA to follow appropriate procedures for the hearing. If the Hearing Pool does not have sufficient numbers to staff a necessary Hearing Panel, the VPSA may fill vacant positions after consultation with the faculty senate, staff senate, or student government association, as appropriate.

**Hearing Panel Training:** All members of the Pool will receive general hearing training.

**Hearing Panel Selection:** Within five (5) days of receipt of a student's request, the VPSA shall schedule and select a Hearing Panel randomly from the Hearing Pool. Specific representatives may also be appointed from professional programs where a violation of an ethical or professional code is alleged. Each Hearing Panel shall consist of three (3) members; one (1) of whom must be a student. If an appointed member cannot serve on a particular panel in a timely fashion, the VPSA may fill the vacant position with another member of the Hearing Pool.

**Impartiality:** Any Hearing Panel member who believes he or she is unable to be an objective participant for a given hearing is expected to remove herself/himself for that particular hearing. The Student Conduct Officer, or the charged student may object to the composition of the Hearing Panel based upon any panel member's inability to be an objective participant for the matter. The VPSA shall make a final determination in any case where there is timely objection to and disagreement as to whether a panel member should be removed.

## B. Role of the Hearing Panel Chair

**Election of the Chair:** Once appointed, the Hearing Panel shall immediately elect a Hearing Panel Chair ("the Chair") for the hearing. Faculty and staff members are eligible to serve in this role. The Chair shall be responsible for management of the Hearing Panel.

**Powers and Duties of the Chair:** The Chair shall preside at all hearings, keep order throughout the hearing process, exercise control over the hearing for efficiency and relevancy, establish all relevant timelines, rule on requests for extensions, and rule on admissibility of evidence, in advance of the hearing and at the hearing. The Chair may exclude from the proceedings any person who disrupts the hearing process or who fails to adhere to the Chair's rulings.

## c. Before the Hearing

**Chair issues deadlines:** Within ten (10) calendar days of formation of the Hearing Panel, the Chair will notify the Student Conduct Officer and the charged student ("the parties") the date and location of the hearing, the deadlines for exchanging information, and shall provide a copy of these procedures. The Chair may modify these deadlines as necessary for the just and efficient handling of a hearing, but in general:

- The hearing should typically be scheduled to occur within thirty (30) calendar days of formation of the Panel;
- If a charged student chooses to be accompanied by a legal advisor, he or she shall notify the Chair as soon as practicable but at least seven (7) days before the hearing;
- The parties shall exchange the names of witnesses at least seven (7) days before the hearing;
- The parties shall exchange copies of all documents or physical evidence at least seven (7) days before the hearing;
- If either of the parties believes that the witnesses, documents, or other evidence should not be

considered by the Panel, because they are not relevant or for some other reason, the Chair must be notified at least five (5) days before the hearing;

- Any other matter relating to the presentation of witnesses or evidence must be raised to the Chair at least five (5) days before the hearing;
- The Chair shall notify the parties of rulings on the admissibility of witness testimony, documents, and other physical evidence not less than two (2) days before the hearing;
- Any party who fails to submit information or exchange information as required by the deadline(s) may be barred from presenting that information in the hearing.

## D. The Elements of the Hearing

**Panel Chair Opening:** The Panel Chair shall open the hearing with the following announcements and procedures:

1. The Chair will notify the parties that the hearing is closed to the public and shall then ask any non-party witnesses to leave the room. A party's advisor may remain in the room;
2. The Chair shall request all persons present to identify themselves to the parties;
3. The Chair shall announce whether the University is recording the proceeding, and if so, shall announce that the recording will be the official record of the proceedings, and will be kept pursuant to the University's Records Retention policy;
4. The Chair may also provide general instructions regarding the proceedings and address any procedural matters that require clarification.

**Student Conduct Officer Opening Statement:** In an opening statement, which should generally not exceed five (5) minutes, the Student Conduct Officer is expected to generally inform the Hearing Panel of the facts and circumstances surrounding the conduct at issue, the provision(s) of the Code that are alleged to have been violated, and asking the Hearing Panel to issue the recommended disciplinary sanction.

**Charged Student Opening Statement:** In an opening statement, which should generally not exceed five (5) minutes, the charged student is expected to generally explain his or her position to the Hearing Panel, which may include, but is not limited to, any of the following:

- whether the charged student denies engaging in the alleged conduct;
- whether the charged student disagrees that the conduct is Prohibited Conduct under the Code; and/or
- that the recommended disciplinary sanction is not appropriate for the violation.

**Presentations:** After the opening statements, the Hearing Panel shall provide the Student Conduct Officer and the charged student an opportunity to present their respective positions, including the presentation of

documents and calling of witnesses. Each party is responsible for ensuring that any witnesses who will testify in support of that party's position are notified of the time and place of the hearing. As a responsibility of membership in the University community, all students are expected to participate in Conduct Proceedings upon request; however, the Hearing Panel cannot compel the attendance of witnesses.

**Cross examination:** Each party shall also be given the opportunity to cross-examine witnesses presented by the other. The Hearing Panel may also directly question any individuals, including the charged student, at any time during the hearing.

**Closing statement:** Generally, each party may be allowed to give a five (5) minute closing statement summarizing the evidence and restating why the Hearing Panel should be persuaded by the party's case.

**Dismissal and deliberations:** Upon conclusion of the closing statements, the Chair shall dismiss the parties and the Hearing Panel shall deliberate privately. The Hearing Panel will consider the facts presented and assess the credibility of those providing information to determine by a majority vote whether, by a preponderance of the evidence (i.e., whether it is more likely true than not true), the charged student has engaged in Prohibited Conduct under the Code. If the Hearing Panel finds that the charged student is responsible for engaging in Prohibited Conduct, the Hearing Panel will consider aggravating and mitigating circumstances in assigning sanctions.

**Notice of decision:** The Chair of the Hearing Panel will notify the charged student and appropriate University officials of the decision in writing within five (5) days of the hearing.

## V. Rules governing hearings

**Closed Proceedings:** All student conduct hearings are closed to the public.

**Recordings:** The University may audiotape any conduct proceeding, which will be the official record of the proceedings, and will be kept pursuant to the University's Records Retention policy, found at:

<http://www.ou.edu/content/dam/AdminFinance/documents/Records%20Retention%20Policy%20intro%20Dec%202010.pdf>

**Counsel to the Hearing Panel:** The Chair and the Hearing Panel may consult with designated counsel in University's Office of Legal Counsel at any time during Student Conduct Proceedings.

**Counsel/Advisor to the Parties:** A charged student may be accompanied by an advisor or attorney during the hearing; provided, in the case of an attorney, the charged student must notify the Chair within the time restrictions imposed by the Chair. If the charged student elects to be accompanied by an attorney, the Student Conduct Officer may elect to be accompanied by a designated member of University's Office of Legal Counsel, who shall not be the same attorney serving as counsel to the Hearing Panel. Attorneys may not directly participate in the hearing unless the recommended sanction is suspension or expulsion.