

APPENDIX A

THE UNIVERSITY OF OKLAHOMA
Student Rights and Responsibilities Code
PROCEDURES
2016-2017

I. Overview

The University will administer the Student Rights and Responsibilities Code (“the Code”) according to the following procedures. All cases under this Code will include a Student Conduct Notice and require a Mandatory Meeting between the student and the Student Conduct Office (“Student Conduct”).

If a case is not resolved at the Mandatory Meeting (as discussed below), a case could, assuming deadlines and conditions are met, advance to a hearing. Depending on the type of charge and/or sanction involved, differing procedures for the hearing and selection of panel members may apply. However, all cases not resolved at the Mandatory Meeting go before a hearing panel (the “Hearing Panel”). The Hearing Panel’s hearings fall within one (1) of two (2) categories: (A) general charges, and (B) sexual misconduct charges. At the conclusion of the hearing and findings, either party may appeal in writing to the Vice President for Student Affairs (“UVPSA”), who in collaboration with the appropriate University official vested with authority over the relevant area, shall render a decision on the written record, and whose decision is final.

The respective campus Director of Student Conduct or 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. Further, the UVPSA in collaboration with Legal Counsel and the respective campus Provost and the respective campus Director of Student Conduct 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.

II. Commencement of a Conduct Process

Student Conduct may initiate the conduct process on the basis of information received from any source, including but not limited to an individual, a University official, a residence hall official or a law enforcement agency. Upon receipt of such information, the appropriate Director of Student Conduct may review the allegations and decide whether they fall within the jurisdiction of the Code and whether conduct proceedings should occur. Student Conduct may (A) initiate conduct proceedings by sending the student a Student Conduct Notice; (B) resolve the situation through an informal resolution process; or (C) dismiss the charge.

Student Conduct shall promptly forward allegations of a violation of the University’s Sexual Misconduct, Discrimination, and Harassment Policy in writing to the University’s Sexual Misconduct Officer (“SMO”). The SMO will investigate any such claims and make a report to the Director of Student Conduct on the respective campus, who will be responsible for filing any applicable charges

under the Code.

A. Student Conduct Notice

When Student Conduct initiates conduct proceedings, it sends a Student Conduct Notice to the student who is the subject of the report or complaint via the student's University email address. Notice to the student will be considered furnished once a Student Conduct Notice complying with the following is delivered to the student's University email account or where certified mail is required by law, the delivery date of the mail.

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 conduct officer within five (5) days, or such shorter time as the Director of Student Conduct specifies.

Likewise, a "no contact" order shall be deemed sufficient if delivered via the student's University email address or as otherwise required by law. 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 additional disciplinary action.

B. Mandatory Meeting

Student Conduct will meet with the charged student to explain the conduct process, answer any questions the charged student may have, and allow the charged student an opportunity to respond to the allegations contained in the Student Conduct Notice. The charged student may be advised by an advisor or attorney (collectively referred to as "advisors") of his or her choosing prior to the meeting, but no advisors shall be present at the meeting.

When the Director of Student Conduct of the respective campus 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 Director of Student Conduct 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 oZone, PeopleSoft or by the student's University email address.

If, during the Mandatory Meeting, the charged student agrees that his or her behavior constitutes a violation of the Code, Student Conduct will discuss with the charged student the violation and any relevant circumstances. After considering any additional information the charged student has presented, Student Conduct shall determine sanctions. If the charged student disagrees with the finding of Student Conduct, the student may request a hearing in writing within two (2) days of the Mandatory Meeting, as applicable.

C. Failure to Respond / Default

If the charged 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, Student Conduct may decide the outcome of the case in the charged 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 under this Code.

III. Hearing Panel Process

A Hearing Panel pool shall be established annually on each of the University's three (3) main campuses, comprised of members appointed by the UVPSA and the respective Provosts upon the recommendation of the applicable faculty senate Chair, staff senate Chair, and student body president. Each pool shall consist of at least ten (10) faculty members, ten (10) staff members and ten (10) students from representatives of each campus, and specific representatives may also be appointed from professional schools where a violation of an ethical or professional code is alleged. Each member of the pool shall serve a two-year term and may be reappointed or removed at any time. All members of each pool will receive general hearing training along with specialized training regarding sexual misconduct.

Upon need for a hearing, the UVPSA or his/her designee shall schedule and select a Hearing Panel randomly from the appropriate pool. If the charges involve sexual misconduct, no appointed panel member may be a student. Generally, the hearing procedures noted below apply to all hearings except as required for sexual misconduct.

- A. Each Hearing Panel shall consist of three (3) members; one (1) of whom must be a student, except in cases involving the Sexual Misconduct, Discrimination, and Harassment Policy, in which case, no student may sit on the Hearing Panel. One (1) faculty or staff member of the Hearing Panel will serve as the Chair and shall be responsible for management of the Hearing Panel.
- B. Student Conduct shall train the Hearing Panel pool at least annually. 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.
- C. In all aspects of these procedures with respect to sexual misconduct cases where rights are provided to the "reporting party," the reporting party is the alleged survivor. The Director of Student Conduct for the respective campus, the charged student, and the reporting party (in sexual misconduct cases) has the opportunity to object to the composition of the Hearing Panel based upon any panel member's inability to be an objective participant for the matter. The UVPSA 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.
- D. Upon receipt of the request for hearing by the charged student, Student Conduct shall request the UVPSA appoint a Hearing Panel within five (5) days of the charged student's request. If an appointed member cannot serve on a particular panel in a timely fashion, the UVPSA may fill the vacant position with another member of the pool. Once appointed, the Hearing Panel shall immediately elect a Chair for the hearing. The Chair of the Hearing Panel will notify the student of the applicable hearing procedure, the date and location of the hearing, and all relevant timelines. Any party who fails to submit information or exchange information as required by the deadline(s) will be barred from presenting that information in the hearing.
- E. The Chair of the Hearing Panel has the authority to preside at all hearings, to keep order throughout the hearing process, to exercise control over the hearing for efficiency and relevancy, and to determine all relevant timelines including any appropriate extension. The Chair may exclude from the proceedings any person who disrupts the hearing process or who

fails to adhere to the Chair's rulings. The hearing shall continue in the removed person's absence. Further, the Hearing Panel cannot guarantee the participation of any person. Students and employees are expected to participate as reasonably requested in conduct proceedings as a responsibility of membership in the University community and failure to do so may result in disciplinary action.

- F. The Hearing Panel shall consider the allegations in the Student Conduct Notice, the charged student's response to those allegations, any applicable reporting party statements (in sexual misconduct cases), and any relevant documents or statements. The Hearing Panel will not hear arguments about the legality or justification of any provision under which a charge is brought or the legality of the procedures. Technical departures from the hearing procedure will not invalidate a decision, recommendation or proceeding unless they have prevented a fair determination of the issues.
- G. Student Conduct, the reporting party (in sexual misconduct cases) and the charged student, as provided by applicable law, will receive a copy of any materials submitted to the Hearing Panel and that the Hearing Panel accepts as relevant.
- H. Each party, including the reporting party in sexual misconduct cases, will be allowed to give a five (5) minute opening statement and a five (5) minute closing statement. After the opening statements, the Hearing Panel may provide the University and the charged student (and the reporting party in sexual misconduct cases) an opportunity to present their respective positions, including the presentation of documents and witness testimony. Each party shall also be given the opportunity to cross-examine witnesses presented by the other. However, in sexual misconduct cases, the charged student and reporting party may not cross-examine one another directly. In any sexual misconduct case where an individual is not represented by an attorney or an advisor, the individual may request that the Hearing Panel pose cross-examination questions. The Chair shall ask those questions the Hearing Panel deems relevant. The Hearing Panel may also directly question any individuals (including the charged student) and will consider any relevant documents presented.
- I. The Hearing Panel will make determinations about the facts and the credibility of those providing information and determine by majority vote whether the charged student has violated the Code. If the Hearing Panel finds that the charged student is responsible for violating the Code, the Hearing Panel shall consider any aggravating or mitigating circumstances timely presented to them in assigning sanctions. The Chair of the Hearing Panel will notify the charged student and appropriate University officials of the decision in writing and in accordance with the procedures noted below.
- J. All student conduct proceedings are closed. 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>
- K. The standard of proof required to show a violation of the Code is by a preponderance of the evidence contained in the record, *i.e.* the evidence must demonstrate that it is more likely true than not that the conduct occurred.
- L. Technical rules of evidence and procedures applicable to civil and criminal court cases do not apply to hearings. The Hearing Panel may consider any information it deems relevant.

- M. If procedural questions arise during the hearing process, the Hearing Panel may consult with the Office of Legal Counsel.
- N. For possible Sanctions, see the Code, Section VII.

IV. Types of Hearings

A. Administrative Review Hearings: Administrative Review Hearings heard by the Hearing Panel involve any charge not involving sexual misconduct or expulsions.

1. Within ten (10) days of the formation of the Hearing Panel, the Chair shall notify the parties of the relevant details and schedule the Administrative Review Hearing, which should typically occur no later than thirty (30) days after the formation of the Hearing Panel. Student Conduct and the charged student shall exchange the names of any persons they believe have relevant information and all relevant documents no later than five (5) days prior to the Administrative Review Hearing.
2. In accordance with these Procedures, the charged student may be advised by an advisor of his or her choosing prior to the Administrative Review Hearing, but no advisor shall be present at the Administrative Review Hearing or in any meetings.
3. If the student is found responsible for violating the Code, the Hearing Panel will consider any aggravating or mitigating circumstances and assign sanctions. The Hearing Panel will notify the charged student and appropriate University officials of the decision in writing via email to the student's University email address within five (5) days of the Administrative Review Hearing.
4. Either party may appeal the decision as noted in Section V below.

B. Sexual Misconduct Hearings: The Hearing Panel shall utilize the Sexual Misconduct Hearing procedures in cases involving sexual misconduct, or the violation of the University's Sexual Assault, Discrimination, and Harassment Policy. The Sexual Assault, Discrimination and Harassment Policy, which is available at:

<http://www.ou.edu/home/misc.html>

1. The Director of Student Conduct for the respective campus shall represent the University, and, due to the nature of the proceedings, indirectly represent the reporting party. However, Student Conduct's role is to ensure the best interests of the University community are represented. In accordance with these Procedures, any party may be advised by an advisor of his or her choosing prior to the hearing, but no advisor shall be present at the hearing or in any meetings.
2. Within five (5) days of the formation of the Hearing Panel, the Chair of the Hearing Panel shall notify the charged student, the reporting party and Student Conduct of the date of the hearing, which shall be set no later than fifteen (15) days from the date of the notice to the parties. The notice shall also include the location of the hearing, the panel composition and any additional Hearing Panel procedures and deadlines for objecting to the panel's composition and for exchanging information such as the names of any persons or documents to be presented (typically five (5) days prior to the hearing).

3. The reporting party shall have any rights afforded to the charged student should the reporting party wish to actively participate in the process. Generally, the reporting party becomes a witness in the proceedings rather than a party initiating or defending the charges. However, to the extent the reporting party wishes to submit objections, present evidence, or identify witnesses outside the context of Student Conduct's role, the reporting party may directly participate in the process.
4. The Hearing Panel may question any witness at the hearing.
5. Hearing Panel members and Student Conduct officers shall be the only persons permitted to question the reporting party and the charged student. The Chair may pose any questions he/she deems relevant as requested by the reporting party or charged student for cross-examination of one another. At no time shall the reporting party or charged student address one another directly.
6. After deliberations, the Chair of the Hearing Panel will notify the charged student and appropriate University officials of the decision in writing via email to the charged student's University email address within five (5) days of the hearing. To the extent permitted or required by law, the Chair of the Hearing Panel will also notify the reporting party of any findings that affect the reporting party to the reporting party's email address within five (5) days of the hearing.
7. Any party may appeal the decision as provided in Section V below.

V. Appellate Review. Student Conduct, the charged student, and the reporting party in sexual misconduct cases may appeal the findings 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 from a hearing, Student Conduct shall immediately request that the UVPSA review the appeal.

The UVPSA shall have the authority to:

1. Affirm the initial decision.
2. Find that improper procedures were used that significantly prejudiced the University or student. In this case, the UVPSA can refer the case back to the Hearing Panel with a recommendation on how to correct the procedures. In any new hearing, the Hearing Panel may make a new decision on the case. Student Conduct or the parties may then submit another request for review to the UVPSA
3. Reduce or increase the sanction, if the UVPSA 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 Hearing Panel is not a compelling justification.
4. Find that (i) Student Conduct or the parties (including the reporting party in sexual misconduct cases) has 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 UVPSA will refer the case back to the Hearing Panel for reconsideration in light of the new information.

The UVPSA shall in collaboration with the appropriate University official, base a decision on the record and shall notify the parties, including the reporting party in sexual misconduct cases, where appropriate, of the decision within five (5) days of receipt of the request for appeal and receipt of the record. In some cases, the UVPSA 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 UVPSA's decision is final. If the UVPSA 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 UVPSA is final.