



UNIVERSITY OF OREGON

Student Affairs

March 13, 2014

TO: Margi Paris, University Senate President

FROM: Robin H. Holmes, Vice President for Student Affairs

RE: Proposed Conduct Code Changes

I am grateful that you have called together the Student Conduct and Community Standards senate committee. As you know changes to federal legislation has resulted in us being out of step with federal laws regarding our student conduct code. Please consider this memo an urgent request to make incremental but necessary changes to the current student conduct code and hopefully bring us closer to the model code that the Dean of Students and other experts in the field consider best practices.

April 2011, the Office of Civil Rights issued the "Dear Colleague letter" (see <http://www2.ed.gov/about/list/officescr/letters/colleague-201104.html>). This direction from the federal government necessitates the following change to our current code (suggested change has been red-lined below):

**571-021-0140**

***Student Rights***

*(h) To be considered not responsible for the alleged conduct until proven responsible by a preponderance of the information. ~~If expulsion is a possibility, the standard of proof must be clear and convincing information.~~*

The same language would also need to be struck from 571-021-0210 (16):

**571-021-0210**

***University Hearings Panel Hearings***

(16) Allegations of violations of the Student Conduct Code must be established by a preponderance of evidence.

Here is the guidance as quoted directly from the "Dear Colleague letter" that is necessitating this proposed change:

OFFICE OF THE VICE PRESIDENT FOR STUDENT AFFAIRS

6203 University of Oregon, Eugene OR 97403-6203 T 541-346-1137 F 541-346-2023 [studentaffairs.uoregon.edu](http://studentaffairs.uoregon.edu)

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Career Center  
541-346-3235

Counseling and Testing  
Center  
541-346-3227

Dean of Students Office  
541-346-3216

Erb Memorial Union  
541-346-3705

Holden Center  
541-346-1146

Physical Education and  
Recreation  
541-346-4113

University Health Center  
541-346-2770

University Housing  
541-346-4277

*OCR also uses a preponderance of the evidence standard in its fund termination administrative hearings. Thus, in order for a school's grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred). The "clear and convincing" standard (i.e., it is highly probable or reasonably certain that the sexual harassment or violence occurred), currently used by some schools, is a higher standard of proof. Grievance procedures that use this higher standard are inconsistent with the standard of proof established for violations of the civil rights laws, and are thus not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for investigating allegations of sexual harassment or violence.*

Another necessary change to the Conduct Code is extending jurisdiction. Many campuses in the Pacific Northwest and beyond have used the "rational nexus" philosophy to extend their campus borders and jurisdiction. I suggest we do the same.

**571-021-0115**

***Jurisdiction***

(A) Adversely affects an environment conducive to as set forth in OAR 571-021-0120(2) and would have violated the Student Conduct Code if the conduct had occurred on campus;

(B)

(C)

(D) Involved standards relative to academic and personal integrity as set forth in OAR 571-021-0120(1), but only if such conduct has a nexus to the University other than that a student engaged in the alleged conduct.

Thank you for your prompt attention to this matter. I am hopeful that the evidentiary standard can be addressed right away and a recommendation from the committee to the senate can occur during spring term. Additionally, changes in jurisdiction would need to be decided upon and properly communicated to new students as early as the July orientation period. The sooner we can begin to educate students about the culture and expectations of our campus, the better. Please feel free to share this memo with the appropriate senate committee members.

cc: Dr. Paul Shang, AVP, Dean of Students