

SEXUAL MISCONDUCT, DISCRIMINATION, AND HARASSMENT POLICY (for incidents occurring on or after August 14, 2020)

I. Policy on Sexual Misconduct, Discrimination, and Harassment

The University is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an atmosphere free from discrimination and harassment. The University prohibits discrimination based on sex or gender, which includes discrimination and harassment on the basis of pregnancy, sexual orientation, gender identity or expression, and all forms of sexual harassment, including sexual assault, dating violence, domestic violence, and stalking.

The Office of Student Affairs is charged with oversight responsibilities and investigation of sex discrimination and sexual harassment as defined by this policy and in compliance with applicable federal laws, including Title IX of the Education Amendments Act of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Act of 1994 (as reauthorized), and applicable Oklahoma laws. In addition, the Office of Student Affairs is charged with investigating sexual misconduct that constitutes Workplace Harassment, Employee Sexual Misconduct, and Prohibited Conduct under the Rogers State University Division of Student Affairs Student Code of Responsibilities and Conduct (the “Student Code”). The Office of Student Affairs is also responsible for investigations of conduct in violation of the Consensual Sexual Relationships Policy.

The University of Oklahoma and Rogers State University entered into a Memorandum of Understanding, effective August 14, 2020, that sets forth how the two institutions will coordinate to investigate violations of the Policy.

Through its Institutional Equity Officer and Title IX Coordinator, the University reserves the right to independently address known concerns falling under this policy to stop sex discrimination and sexual harassment, prevent its recurrence, and remedy its effects. The term “Title IX Coordinator” refers to the Title IX Coordinator who oversees the implementation of the University’s Sexual Misconduct, Discrimination and Harassment Policy, as well as the University’s Non-Discrimination Policy and Affirmative Action Plan. The Title IX Coordinator(s) has the primary responsibility for coordinating the University’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under these policies.

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and procedure. The Title IX Coordinator requires training for all involved staff, including investigators, as well as for Decision-makers and Informal Resolution Facilitators. These individuals are trained to ensure they are not biased for or against any party in a specific case, or for against Complainants and/or Respondents, generally. To raise any concern involving bias or conflict of interest, or reports of misconduct or discrimination by the Title IX Coordinator, contact Vice President for Student Affairs Jerrett Phillips, Ph.D., at 1701 W. Will Rogers Blvd., Dr. Carolyn Taylor Center, RM 201D, Claremore, OK 74017, (918) 343-7569, jphillips@rsu.edu. Concerns of bias or potential conflict of interest or reports of misconduct or discrimination by any other Title IX Team member should be raised with the Title IX Coordinator.

The term “Title IX Coordinator” as used herein may also include an Associate Title IX Coordinator or other member of the Title IX Team under the supervision of the Title IX Coordinator. For the purposes of this policy, the term “Complainant” means any individual who is alleged to be the victim

of conduct that could constitute Prohibited Conduct. The term “Respondent” means any individual who is reported or alleged to be the perpetrator of conduct that could constitute Prohibited Conduct.

Any person seeking to invoke the protections of this policy may do so solely by providing notice to the Title IX Coordinator as provided herein; notice to other members of the University community will not be imputed to the Title IX Coordinator.

II. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Jeana Rae Conn, JD
Assistant Vice President of Student Affairs/Title IX Coordinator
Dr. Carolyn Taylor Center 1701 W. Will Rogers Blvd
Claremore, OK 74017
(918) 343-7707
Jconn@rsu.edu

Jerrett Phillips, Ph.D.
Vice President for Student Affairs/Institutional Equity Officer
Dr. Carolyn Taylor Center, 1701 W. Will Rogers Blvd.
Claremore, OK 74017
(918) 343-7569
jphillips@rsu.edu

III. Presumption of Innocence

A Respondent who is alleged to have engaged in Prohibited Conduct, as defined below, shall be presumed innocent during the pendency of any grievance proceedings.

IV. Prohibited Conduct

The following conduct, or attempted conduct (in the case of conduct prohibited in subsections C and E below), is prohibited, and constitutes “Prohibited Conduct” for purposes of this Policy:

A. Sex Discrimination

Conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education, or institutional benefits, on account of sex or gender (including sexual orientation, gender identity, and gender expression discrimination). It may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

B. Pregnancy Discrimination

Discrimination on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom. Discrimination on the basis of pregnancy should be reported in accordance with this policy. Employees with questions regarding accommodations during pregnancy are encouraged to contact the Office of Human Resources. Students and visitors with questions regarding accommodations during pregnancy are encouraged to contact the Title IX Coordinator.

C. Title IX Sexual Harassment

A specific form of sex discrimination. Title IX Sexual Harassment includes the following types of Prohibited Conduct when they occur in the context of the University's educational programs or activities, and within the United States.

For the purposes of this policy, "educational program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by an officially recognized or registered student organization. Under Title IX, Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

1. Hostile Environment Harassment, which is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;
2. Quid Pro Quo Sexual Harassment, where an employee of the University is conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; or
3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined below in accordance with applicable law:

Sexual Assault includes:

- a. Rape - penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim;
- b. Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim;
- c. Incest - Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and
- d. Statutory Rape - sexual intercourse with a person who is under the statutory age of consent.

4. Dating Violence, which is violence between individuals in the following circumstances:

- a. The party is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. The existence of such a relationship shall be determined based on a consideration of the following factors: (i) length of the relationship; (ii) type of relationship; (iii) frequency of interaction between the persons involved in the relationship.

5. Domestic Violence, which is an assault and battery against: a current or former spouse; a present spouse of a former spouse; a former spouse of a present spouse; parents; a foster parent; a child; a person otherwise related by blood or marriage; a person with whom the Respondent is or was in a dating relationship; an individual with whom the Respondent has had a child; a person who formerly lived in the same household as the Respondent; or a person living in the same household

6. Stalking, which is a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person's safety or the safety of others, or (b) Suffer substantial emotional distress

D. Workplace Harassment

Unwelcome conduct that is based on sex (including pregnancy), and (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

E. Employee Sexual Misconduct

Employee conduct that occurs outside the context of the educational program or outside the United States, but where the conduct otherwise meets one or more definitions of Sexual Harassment set forth in Section C, above. The University of Oklahoma Title IX Coordinator is authorized to investigate Prohibited Conduct under this section with written approval from the University's Director of Human Resources.

F. Sexual Misconduct- Student Code Violation

Student conduct that occurs outside the context of the educational program or outside the United States, but otherwise meets one or more definitions of Sexual Harassment set forth in Section C, above. The University of Oklahoma Title IX Coordinator is authorized to investigate Prohibited Conduct under this section with written approval from the Associate Vice President for Student Affairs stating the Prohibited Conduct, as alleged, is within the University's jurisdiction as defined in the Student Code.

G. Retaliation

Any attempt to penalize or take an adverse employment, educational or institutional benefit action, including but not limited to making threats, intimidation, reprisals, interference with an individual's protected rights, or other adverse action, against a person because of participation or non-participation in a report, investigation, or grievance process of Prohibited Conduct.

H. False Reporting

Knowingly making a materially false statement in bad faith or knowingly submitting materially false information during the grievance process is prohibited. False reporting does not include accidental or inadvertent false statements, immaterial inaccuracies, or statements made outside the context of making a report, filing a grievance, participating in a grievance procedure, or during the grievance process.

I. Violation of Consensual Sexual Relationships Policy

The Consensual Sexual Relationships Policy may be found [update upon completion]. 

V. Direct Administrative Action

A. Administrative Review

Subject to the limitations of applicable law, the Title IX Coordinator reserves the right to address an incident of Prohibited Conduct on campus even if no Formal Complaint of Title IX Sexual Harassment or other Complaint alleging other Prohibited Conduct is filed, and may take unilateral action to remedy the effects of sexual harassment. In undertaking a unilateral administrative action, however, the Title IX Coordinator may not impose any disciplinary sanction or unduly burden a Respondent.

B. Emergency Removal – Students

The University Assistant Vice President for Student Affairs may take Direct Administrative Action (DAA) to immediately restrict a student's rights within the University community, up to and including emergency removal. A DAA imposed after an individualized safety and risk analysis yields a determination that an immediate threat to the physical health or safety of a student or other individual justifies the removal must provide a removed student with notice and an opportunity to challenge the decision as soon as reasonably possible afterward.

C. Emergency Removal/Administrative Leave – Non-student employees

With respect to employees (other than student employees), upon a determination at any stage in the grievance procedure that the continued performance of either party's regular duties or University responsibilities would not be in the best interest of the University, the executive officer over the area may, with the concurrence of the Director of Human Resources, suspend or reassign an employee's duties or responsibilities, or place the individual on an administrative leave of absence pending the completion of the grievance procedure.

VI. Reporting Prohibited Conduct

Upon receiving a report of Prohibited Conduct, the Title IX Coordinator will promptly provide a Complainant with important information about options for filing a Formal Complaint of Sexual Harassment, if applicable, a Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation), or other appropriate grievance as set forth below. The Title IX Coordinator will offer information about supportive measures that are available without regard to whether any grievance is filed.

A. Duty to Report Prohibited Conduct

Supervisors, managers and faculty members with administrative duties or student supervisory duties are responsible for taking all appropriate action to prevent sex discrimination and harassment, and to stop and correct it when it occurs, and are expected to report it to the Title IX Coordinator or any of the University's Associate Title IX Coordinators at (918) 343-7707.

B. Immunity Policy

The safety of students, employees, and the campus community are of utmost importance to the University. In order to encourage reporting of incidents of Prohibited Conduct, no Complainant, Respondent, or witness will be referred for disciplinary action solely for engaging in the unlawful or prohibited use of alcohol and/or drugs when the reported incident occurred. Provided, nothing prohibits an investigator or decision-maker from inquiring into alcohol and/or drug use if a party or witness's use of alcohol or drugs is relevant in the grievance process.

C. Confidential Reporting Resources

Requests for confidentiality or anonymity may limit or preclude the University's ability to conduct an investigation of allegations of Prohibited Conduct. A request for confidentiality will be respected unless the Title IX Coordinator determines it is necessary to conduct an investigation.

These on-campus resources can offer options and advice without the obligation to inform University officials, including the Title IX Coordinator, unless the Complainant requests that the information be shared. Parties wishing to report confidentially may do so by contacting:

- RSU Student Counseling Services: (918) 343-7845 - provides counseling services

D. Timing of Complaints

There is no time limitation on reporting an incident to the Title IX Coordinator or for filing a Formal Complaint of Title IX Sexual Harassment or Complaint of other Prohibited Conduct. However, if the Respondent is no longer subject to the University's jurisdiction for disciplinary sanctions and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. In cases where significant time has lapsed since the reported incident, the Title IX Coordinator shall offer supportive measures. If a Formal Complaint of Title IX Sexual Harassment, Complaint of Employee Sexual Misconduct, or Sexual Misconduct (Student Code Violation) is dismissed because passage of time renders investigation not reasonably practicable, the parties will be afforded the right to appeal the decision in accordance with the Grievance Procedures for Title IX Sexual Harassment and Sexual Misconduct.

E. Intake Process

Upon receiving a report or Formal Complaint of Title IX Sexual Harassment or Complaint of other Prohibited Conduct, the Office of Institutional Equity staff and/or the Title IX Coordinator will promptly communicate with a Complainant to discuss the availability of supportive measures, provide information about the investigative process, and discuss the process for filing a Formal Complaint of Title IX Sexual Harassment or a Complaint of other Prohibited Conduct. Where applicable, Complainants will also be advised on the preservation of evidence that may be relevant to a University or other proceeding and their right to seek a court-issued order of protection. Complainants will be informed of the right to report an incident to law enforcement authorities and will be offered assistance in reporting to law enforcement if requested.

F. Supportive Measures

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. Supportive measures are non-disciplinary, non-punitive, individualized services offered without fee or charge to either party before or after the filing of a Formal Complaint of Title IX Sexual Harassment or Complaint of other Prohibited Conduct, or where none is filed. Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party. Supportive measures may include a range of options such as counseling, course-related adjustments, modifications of work or class schedules, campus services, mutual restrictions on contact between the parties, changes in work or housing locations, and other similar measures. A mutual restriction on contact between the parties is referred to as a "no contact order," which is enforceable through student and employee conduct processes.

At the time that supportive measures are offered, the Office of Student Affairs & Development will inform the Complainant, in writing, of the option to file a Formal Complaint with the Office of Student Affairs either at that time or in the future, if the Complainant has not done so already. The Title IX Coordinator works with the Complainant and will take the Complainant's wishes into account

with respect to the supportive measures that are planned and implemented. The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures.

G. Confidentiality

The University will keep confidential the identity of any individual who has made a report or complaint of Prohibited Conduct, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness (unless permitted by the Family Educational Privacy Act (FERPA)), or required under law, or as necessary to conduct proceedings under Title IX or to carry out the purposes of the Title IX regulations to conduct any investigation, hearing, or judicial proceeding arising thereunder, which includes a grievance process).

VII. Formal Complaint of Title IX Sexual Harassment or Sexual Misconduct

A Complainant may choose whether to proceed with filing a Formal Complaint of Title IX Sexual Harassment or Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation). In certain instances, such as those which indicate a pattern, predation, threat, weapons and/or ongoing violence, or when an employee is alleged to have sexually harassed a student, the Title IX Coordinator may initiate an investigation.

A. Promptness

The Office of Student Affairs will respond promptly to reports of Title IX Sexual Harassment, Employee Sexual Misconduct and Sexual Misconduct (Student Code Violation). Formal Complaints may take 60-90 business days to resolve, typically. The Office of Student Affairs will work to avoid undue delays within its control, but in some cases timelines may need to be extended. Any time the general timeframes for resolution outlined in the Office of Student Affairs procedures will be delayed, the Office of Student Affairs will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

B. Process summary

The Grievance Procedures for Formal Complaints Involving Title IX Sexual Harassment and Sexual Misconduct are designed to provide the parties with an impartial investigation, decision-making, equitable resolution, and appellate process. While individual proceedings may vary depending upon the specific facts and circumstances, a grievance will follow the following format:

1. Formal Complaint
2. Written Notice to Parties
3. Investigation of Formal Complaint
4. Parties' Review and Response to Evidence
5. Investigative Report
6. Live Hearing

7. Determination
8. Appeal by Either Party
9. Sanctions and Other Remedies Implemented (if warranted)
10. Informal Resolution (under certain circumstances, at any time prior to a Determination by agreement of the parties)

C. Filing a Formal Complaint of Title IX Sexual Harassment or Sexual Misconduct

1. Title IX Sexual Harassment

A Formal Complaint is a document or electronic submission (such as by electronic mail, through an online portal provided for this purpose by the University, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report) that contains the Complainant's digital or physical signature, or otherwise indicates that the Complainant is the person filing the formal complaint (or, in some cases, signed by the Title IX Coordinator) alleging sexual harassment against a Respondent about conduct within the University's education program or activity and requesting that the University investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the University's education program or University-related activity.

A Formal Complaint may be filed with the Title IX Coordinator (or Associate Title IX Coordinator, all of whom constitute the Title IX Coordinator for purposes of this Policy). The Formal Complaint may be filed in person, by mail, or by electronic mail at any time of day, including during non-business hours, using the contact information listed for the Title IX Coordinator. Generally, a Formal Complaint should be filed as quickly as possible to facilitate the ability to gather facts and evidence; however, every Formal Complaint will be reviewed regardless of when an incident occurred. The Office of Student Affairs encourages the use of its in-office form for filing a Formal Complaint; however, no particular form is required as long as it (1) is signed, (2) alleges sexual harassment, against a Respondent, and (3) requests an investigation.

Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or party during a grievance process and will comply with the requirements for Title IX personnel to be free from conflicts and bias.

2. Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation)

The process for a filing a Complaint of Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation) is the same as the process for filing a Formal Complaint of Title IX Sexual Harassment above, except that prior to initiating an investigation into the alleged conduct, the University of Oklahoma Title IX Coordinator must first request authorization to investigate from the Director of Human Resources or Associate Vice President of Student Affairs, who will determine whether the University has disciplinary jurisdiction over the Respondent pursuant to the applicable Rogers State University Human Resources Policies and Procedures Manual and the Academic Affairs Policies and Procedures Manual or the Student Code. Once a Complaint is filed, the Complaint procedures will follow the same procedure for a Formal Complaint of Title IX Sexual Harassment except where specifically noted herein or in the [Grievance Procedures for Formal Complaints of Title IX Sexual Harassment or Sexual Misconduct](#).

VIII. Reporting and Filing a Complaint of Gender-Based Discrimination, Retaliation, or False Reporting

Students or employees who have experienced adverse effects to their employment or education, or institutional benefits, on account of sex or gender (including pregnancy, sexual orientation, gender identity, and gender expression discrimination) may trigger the protections of this policy by filing a Complaint with the Office of Student Affairs. A Complaint filed under this section should state with specificity the person(s) responsible for the discriminatory conduct, the adverse effect it has caused to the Complainant’s employment, education, or institutional benefits, and a statement of the relief requested.

Complaints of Gender-Based Discrimination, Workplace Harassment (other than Title IX Sexual Harassment or Sexual Misconduct), Retaliation, and False Reporting will be investigated in accordance with the Investigative Procedures for Gender-Based Discrimination.

IX. Remedies and Disciplinary Sanctions

If (1) upon conclusion of an investigation and adjudicatory proceedings, or (2) pursuant to voluntary participation in an Informal Resolution process, a Respondent is found to be responsible for engaging in Prohibited Conduct, the Title IX Coordinator may recommend appropriate remedies and disciplinary sanctions. Remedies are designed to restore or preserve equal access to the University’s education program or activity, and include measures such as academic support, counseling, and other supportive measures (whether burdensome, punitive, or disciplinary to the Respondent). The Title IX Coordinator will be responsible for the effective implementation of remedies.

The range of possible disciplinary sanctions include:

| Prohibited Conduct* | Employee Disciplinary Sanction | | Student Disciplinary Sanction | |
|---|--------------------------------|------------------------|-------------------------------|---------------------------|
| Sexual Harassment – Hostile Environment | Min. | Written Reprimand | Min. | Disciplinary Probation |
| | Max. | Termination | Max. | Suspension/Delayed Degree |
| Sexual Harassment- Quid Pro Quo | Min. | Suspension without Pay | Min. | Suspension |
| | Max. | Termination | Max. | Expulsion/ Delayed Degree |
| Sexual Assault | Min. | Termination | Min. | Suspension |
| | Max. | Termination | Max. | Expulsion/Delayed Degree |
| Dating Violence or Domestic Violence | Min. | Suspension without Pay | Min. | Disciplinary Probation |
| | Max. | Termination | Max. | Expulsion/Delayed Degree |

| Prohibited Conduct* | Employee Disciplinary Sanction | | Student Disciplinary Sanction | |
|---|---|------------------------|-------------------------------|--------------------------|
| | | | | |
| Stalking | Min. | Suspension without Pay | Min. | Disciplinary Probation |
| | Max. | Termination | Max. | Expulsion/Delayed Degree |
| Other Prohibited Conduct | Sanctions for all other Prohibited Conduct may range from written reprimand to termination and suspension and/or expulsion, depending upon the totality of the circumstances. | | | |
| *Sanctions under this section applicable to Prohibited Conduct that amounts to Title IX Sexual Harassment, Employee Sexual Misconduct or Sexual Misconduct (Student Code Violation) | | | | |

X. Definition of Consent

Consent is the act of willingly agreeing to engage in sexual contact or conduct. Individuals who consent to sex must be able to understand what they are doing.

- Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.
- Consent to one form of sexual activity cannot imply consent to other forms of sexual activity.
- Previous relationships or consent does not imply consent to future sexual acts.
- Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion.

Use of alcohol, medications, or other drugs will not excuse behavior that violates this policy. Examples of when a person should know the other is incapacitated and may be unable to give valid consent include, but are not limited to:

- the amount of alcohol, medication, or drugs consumed
- imbalance or stumbling
- slurred speech
- lack of consciousness or inability to control bodily functions or movements
- vomiting
- legal incapacity, such as in the case of a minor and/or persons under legal guardianship

XI. Free Speech and Academic Freedom

Members of the University community enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution. This policy is intended to protect members of the University community from discrimination and is not designed to regulate protected speech. No

provision of this policy shall be interpreted to prohibit conduct that is legitimately related to course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

XII. Records

The Office of Student Affairs will retain records in accordance with the requirements of applicable local, state, and federal law. Records of all Title IX reports, complaints, investigations, determinations, disciplinary sanctions, remedies, supportive measures, hearing materials (including audio/audiovisual recordings/transcripts of a live hearing), appeals, informal resolutions, and materials used to train coordinators, investigations, and decision-makers with regard to sexual harassment will be retained for a minimum of seven (7) years.

The University disseminates a public Annual Security Report (ASR) to employees and students every October 1st. The ASR includes statistics of campus crime for the preceding 3 calendar years, plus details about efforts taken to improve campus safety. The report includes: definitions of sexual harassment, resources and reporting for a person who is victimized, support services, on and off campus resources, preventive measures and the sex offender registration. Additionally, there are policy statements regarding crime reporting, campus facility security and access, incidences of alcohol and drug use, and the prevention of/response to sexual assault, domestic and dating violence, and stalking.

XIII. Availability of other Complaint Procedures

In addition to seeking criminal charges through local law enforcement, members of the University community may also file complaints with the following entities irrespective of whether they choose to file a Formal Complaint or other grievance under this procedure:

Office of Civil Rights:

- Kansas City Field Office:
OCR.KansasCity@ed.gov | 1-816-268-0550
- Washington D.C.:
OCR@ed.gov | 1-800-421-3481

Equal Employment Opportunity Commission:

- Oklahoma City Field Office:
1-800-669-4000
- Washington D.C.:
1-800-669-4000 | Eeoc.gov/contact/

State of Oklahoma Attorney General's Office:

- Office of Civil Rights Enforcement:
405-521-2029 | OCRE@oag.gov

Effective Date: 8.14.20, amended 8.1.24

Federal funding agencies

e.g. NASA:1-866-654-1440 | LEP@NASA.gov

Appendix A: VAWA State Law Definitions¹

In accordance with the Violence Against Women Reauthorization Act of 2013, please be advised that the following definitions are applicable should you wish to pursue Oklahoma state criminal or civil actions. These definitions may differ from the University's administrative policy definitions noted above. The University's administrative system and disciplinary procedures are separate and distinct from those available to someone in a state civil or criminal action. Individuals may seek administrative remedies in accordance with this policy and also may seek state or federal civil or criminal remedies for the same incident through the applicable systems. The definitions set forth below are reviewed and verified annually; for a more frequently updated resource, please consult Oklahoma's State Court Network site: <http://www.oscn.net>.

Consent

The term "consent" means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time. Consent cannot be:

1. Given by an individual who:
 - a. is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason, or
 - b. is under duress, threat, coercion or force; or
2. Inferred under circumstances in which consent is not clear including, but not limited to:
 - a. the absence of an individual saying "no" or "stop", or
 - b. the existence of a prior or current relationship or sexual activity.

21. O.S. § 113 (effective June 6, 2016)

Sexual Assault

The term "sexual assault" is any type of sexual contact or behavior that occurs without explicit consent of the recipient including, but not limited to, forced sexual intercourse, forcible sodomy, child molestation, child sexual abuse, incest, fondling and all attempts to complete any of the aforementioned acts.

In any criminal jury trial of a crime involving any type of sexual contact or behavior where "consent" is an element of the crime or a defense raised by the accused, the court shall instruct the jury on the definition of consent as such term is defined in Section 113 of this title.

21 O.S. § 112

Rape

A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female within or without the bonds of matrimony who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

1. Where the victim is under sixteen (16) years of age;

¹ Updated August 1, 2024

2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;
5. Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;
6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;
7. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim;
8. Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of the same school system; or
9. Where the victim is nineteen (19) years of age or younger and is in the legal custody of a state agency, federal agency or tribal court and engages in sexual intercourse with a foster parent or foster parent applicant.
10. Where the victim is a student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this subsection with a perpetrator who is an employee of the institution of higher education of which the victim is enrolled.

B. "Employee of an institution of higher education", for purposes of this section, means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher education.

21 O.S. § 1111 (effective June 14, 2024)

Rape by Instrumentation

A. Rape by instrumentation is an act within or without the bonds of matrimony in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person.

Effective Date: 8.14.20, amended 8.1.24

B. Provided, further, that at least one of the circumstances specified in Section 1111 of this title has been met; further, where the victim is:

1. At least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in conduct prohibited by this section of law with a person who is eighteen (18) years of age or older and is an employee of the same school system;
2. Under the legal custody or supervision of a state or federal agency, county, municipal or a political subdivision and engages in conduct prohibited by this section of law with a federal, state, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, consent shall not be an element of the crime;
3. Nineteen (19) years of age or younger and in the legal custody of a state agency, federal agency or tribal court and engages in conduct prohibited by this section of law with a foster parent or foster parent applicant; or
4. A student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this section with a perpetrator who is an employee of the institution of higher education of which the student is enrolled.

C. Employee of an institution of higher education”, for purposes of this section, means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher education.

D. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

21 O.S. § 1111.1 (effective November 1, 2022)

Rape in First Degree - Second Degree

A. Rape or rape by instrumentation in the first degree shall include:

1. rape committed by a person over eighteen (18) years of age upon a person under fourteen (14) years of age; or
2. rape committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or
3. rape accomplished where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or
4. rape accomplished where the victim is at the time unconscious of the nature of the act and this fact is known to the accused; or
5. rape accomplished with any person by means of force, violence, or threats of force or violence

Effective Date: 8.14.20, amended 8.1.24

accompanied by apparent power of execution regardless of the age of the person committing the crime; or

6. rape by instrumentation regardless of the age of the person committing the crime; or.

B. In all other cases, rape or rape by instrumentation is rape in the second degree

21 O.S. § 1114

Forcible Sodomy

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age;

2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime;

3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime;

4. Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state; or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision of this state;

5. Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system;

6. Sodomy committed upon a student at a secondary school who is concurrently enrolled at an institution of higher education by an employee of the institution of higher education of which the student is enrolled;

7. Sodomy committed upon a person who is at the time unconscious of the nature of the act, and this fact should be known to the accused; or

8. Sodomy committed upon a person where the person is intoxicated by a narcotic or anesthetic agent administered by or with the privity of the accused as a means of forcing the person to submit.

C. "Employee of an institution of higher education", for purposes of this section, means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher education.

21 O.S. § 888 (effective November 1, 2022)

Dating Violence

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Dating violence is not defined under Oklahoma law; however, the law does provide that any act of physical harm, or the threat of imminent physical harm against a person with whom a perpetrator was or is in a dating relationship is considered domestic violence, which defined below. The Protection from Domestic Abuse Act and Domestic Abuse Reporting Act defines dating relationship as: intimate association, primarily characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship. . “Intimate partner” means: (a) current or former spouses, (b) persons who are or were in a dating relationship, (c) persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time, and (d) persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner, but is never a necessary condition.

22 O.S. § 60.1 (1), (5), (6) (effective Jun 14, 2024)

Domestic Violence

Domestic violence is not defined under Oklahoma law; however, the law does provide that: any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, a former spouse of a present spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is or was in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic abuse.

21 O.S. § 644 (C)

Stalking

A. Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that:

1. Would cause a reasonable person or a member of the immediate family of that person as defined in subsection F of this section to feel frightened, intimidated, threatened, harassed, or molested; and
2. Actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

F. For purposes of this section:

1. "Harasses" means a pattern or course of conduct directed toward another individual that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim.

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Harassment shall include harassing or obscene phone calls as prohibited by Section 1172 of this title and conduct prohibited by Section 850 of this title. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;

2. "Course of conduct" means a series of two or more separate acts over a period of time, however short or long, evidencing a continuity of purpose, including any of the following:

- a. maintaining a visual or physical proximity to the victim,
- b. approaching or confronting the victim in a public place or on private property,
- c. appearing at the workplace of the victim or contacting the employer or coworkers of the victim,
- d. appearing at the home of the victim or contacting the neighbors of the victim,
- e. entering onto or remaining on property owned, leased, or occupied by the victim,
- f. contacting the victim by telephone, text message, electronic message, electronic mail, or other means of electronic communication or causing the telephone or electronic device of the victim or the telephone or electronic device of any other person to ring or generate notifications repeatedly or continuously, regardless of whether a conversation ensues,
- g. photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subparagraph applies regardless of where the act occurs,
- h. sending to the victim any physical or electronic material or contacting the victim by any means, including any message, comment, or other content posted on any Internet site or web application,
- i. sending to a family member or member of the household of the victim, or any current or former employer of the victim, or any current or former coworker of the victim, or any friend of the victim, any physical or electronic material or contacting such person by any means, including any message, comment, or other content posted on any Internet site or web application, for the purpose of obtaining information about, disseminating information about, or communicating with the victim,
- j. placing an object on or delivering an object to property owned, leased, or occupied by the victim,
- k. delivering an object to a family member or member of the household of the victim, or an employer, coworker, or friend of the victim, or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim, or
- l. causing a person to engage in any of the acts described in subparagraphs a through k of this paragraph.

Constitutionally protected activity is not included within the meaning of "course of conduct";

3. "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling;

4. "Unconsented contact" means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Constitutionally protected activity is not included within the meaning of unconsented contact. Unconsented contact includes but is not limited to any of the following:

- a. following or appearing within the sight of that individual,
- b. approaching or confronting that individual in a public place or on private property,

- c. appearing at the workplace or residence of that individual,
- d. entering onto or remaining on property owned, leased, or occupied by that individual,
- e. contacting that individual by telephone,
- f. sending mail or electronic communications to that individual, and
- g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; and

5. "Member of the immediate family", for the purposes of this section, means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who regularly resided in the household within the prior six (6) months.

6. "Following" shall include the tracking of the movement or location of an individual through the use of a Global Positioning System (GPS) device or other monitoring device by a person, or person who acts on behalf of another, without the consent of the individual whose movement or location is being tracked; provided, this shall not apply to the lawful use of a GPS device or other monitoring device or to the use by a new or used motor vehicle dealer or other motor vehicle creditor of a GPS device or other monitoring device, including a device containing technology used to remotely disable the ignition of a motor vehicle, in connection with lawful action after default of the terms of a motor vehicle credit sale, loan or lease, and with the express written consent of the owner or lessee of the motor vehicle

21 O.S. § 1173 (effective November 1, 2022)

Appendix B: Education, Training, and Resources

Employees must take an approved training course every 2 years during their career, with the initial training in their first 30 days of service at the University (<https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>). Employees may be required to be recertified on demand. Failure to have a certification of this required training may result in appropriate disciplinary action. Additional in-person trainings are also offered periodically and on request. Where University employees are also students, they will be required to also take the mandatory online training provided to students. For those without access to a computer or in need of additional assistance, please contact the University's Human Resources Department to take the training in an alternate format. Please see the types of training offered below. For more information on training resources or to view copies of training resources, visit RSU's Office of Student Affairs website.

I. For students, the University offers:

- Mandatory online training for students through: <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>. Where students are also University employees, they will be required to take both the employee training and the student online training.
- Training on sexual harassment/discrimination/violence is included in the University's mandatory alcohol training program (in-person and online).
- In-person training for student groups and students through courses, orientations, and other meetings.
- On-going campus campaigns and information at a variety of events concerning the policy and appropriate behaviors regarding sexual assault, dating violence, domestic violence, stalking, and other sexual misconduct.
- Informational website and brochures devoted to educating students at <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>.

II. For employees, the University offers:

- Mandatory online training for employees through: <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>.
- In-person training on sexual harassment/discrimination/violence and mandatory reporting through new employee orientations, foundations in management, and other periodic training opportunities and upon request.
- Ongoing campus campaigns and information at a variety of events, concerning the policy

and appropriate behaviors, regarding sexual assault, dating violence, domestic violence, stalking, and other sexual misconduct.

- Informational website and brochures devoted to educating employees at: <https://www.rsu.edu/campus-life/student-resources/gender-based-misconduct/what-is-it/>.
- Employee Assistance Program offers services to employees – 1(800) 327-5043.

III. Other resources available to the University community:

- Campus Police: Claremore 918-343-7624 -Campus Police Building
- Bartlesville 918-338-8020 or 918-440-9479 (cell) -First floor across from Admissions
- Pryor 918-825-6034 or 918-373-0357 (cell) -Room 104
- Employee Assistance Program: (800) 327-5043 - confidential resources for HSC and Norman employees; (918) 587-9471 for OU-Tulsa employees
- Hillcrest Hospital: 918-341-2556 - 1202 N. Muskogee Pl., Claremore, OK 74017
- Jane Phillips Medical Center: 918-333-7200 - 3500 SE. Frank Phillips Blvd., Bartlesville, OK 74006
- Integris Mayes County Medical Center: 918-825-1600 - 111 N. Bailey St., Pryor, OK 74361
- DVIS Call Rape Helpline: 918-749-5763
- Safenet Services (Rogers County): 918-341-1424 -1219 W. Dupont, Claremore, OK 74017
- Safenet Services (Mayes County): 918-825-0190 - 19 N. Coo-Y-Yah, Pryor, OK 74361
- Family Crisis and Counseling Center: 918-336-1188 - 622 SE Frank Phillips, Bartlesville, OK 74003
- Hillcats Report It! <https://www.rsu.edu/resources/feedback/>