

## **Sexual Misconduct Policy and Procedures**

### **INTRODUCTION**

Northwestern Oklahoma State University is committed to addressing sexual misconduct. Northwestern Oklahoma State University does not condone any form of sexual misconduct whether physical, mental, verbal, or emotional in nature. Sexual misconduct by any member of the university community including students, faculty, or staff is a violation of both the law and the University's Policies. The Sexual Misconduct Policy and Procedures applies to students and employees regardless of sexual orientation or gender identity and third parties.

Title IX says, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."

In order to create a safe and healthy environment, it is the responsibility of faculty, staff, and students to report any sexual misconduct or domestic violence to University officials. If there is reason to believe the University's policies prohibiting sexual misconduct have been violated, the University may pursue the matter as misconduct warranting disciplinary action by the University, even if law enforcement authorities choose not to prosecute.

### **Affirmative Action Statement**

This institution, in compliance with Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act Amendments Act of 2008, and other applicable federal laws and regulations, and to the extent required by law, does not discriminate on the basis of race, color, national origin, sex, age, religion, physical or mental disability, or status as a veteran in any of its policies, practices, or procedures. This includes, but is not limited to, admissions, employment, financial aid, and educational services. Inquiries concerning the application of these programs should be made to Calleb Mosburg, Dean of Student Affairs and Enrollment Management, Northwestern Oklahoma State University, 709 Oklahoma Boulevard, Alva, OK 73717, (580) 327-8415.

### **CONFIDENTIALITY**

Northwestern will protect the confidentiality of victims of sexual misconduct and domestic violence, including the protection of any identifiable information of victims in records that may be accessed by the public, to the extent permissible by federal and state laws. To the extent possible, the University will make every effort to maintain the privacy of all parties involved in alleged sexual offenses, relationship violence, harassment, and stalking incidences. Privacy, however, cannot be guaranteed in some incidences due to the responsibility to the overall campus safety.

Every reasonable effort will be made to protect the privacy of all parties during the investigation, consistent with and subject to the University's need to investigate the complaint and/or implement decisions made in order to resolve the complaint. It must be understood that in order to permit the University to carry out its obligation to investigate all complaints fairly, and to ensure that non-discrimination is a reality within the University community, no representative of

the University is authorized to promise complete confidentiality to any person who possesses information relevant to the investigation of a complaint, including the complainant.

The university will complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusions of personally identifying information about the victim, as identified in section 40002(a) (20) of the Violence Against Women's Act of 1994.

### **Privileged and Confidential Communications: Professional Counselors, Non-professional Counselors and Advocates**

Professional, licensed campus counselors, community advocates, and school counselors who provide mental-health counseling to members of the school community are not required to report any information about an incident to the Title IX Coordinator without a victim's permission.

- NWOSU Counseling Services – Fine Arts Building, Room 207, 580-327-8439.  
A counselor is available 24-hours a day. Call NWOSU Campus Police at 580-327-8511 to reach the on-call counselor after 5 p.m. weekdays and on the weekends.

Non-Professional Counselors and Advocates should report the nature, date, time, and general location of an incident to the Title IX Coordinator while maintaining a victim's confidentiality. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate campus-wide responses.

- Karmen Thomas: Northwest Domestic Crisis Services (available 24 hrs. a day)
  - 580-327-6648
  - 1-888-256-1215

A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support. A victim who first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated.

### **How the University will weigh the request for confidentiality and respond**

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the Sexual Assault Response Team must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the University honors the request for confidentiality, a victim must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator may be limited.

Although rare, there are times when the University may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, Northwestern Oklahoma State University will consider a range of factors, including the following:

- There have been other sexual violence complaints about the same alleged respondent.
- The alleged respondent has a history of arrests or records from a prior school indicating a history of violence.
- The alleged respondent threatened further sexual violence or other violence against the victim or others.
- The sexual violence was committed by multiple respondents.
- The sexual violence was perpetrated with a weapon.
- The victim is a minor.
- The University possesses other means to obtain relevant information of the sexual violence (e.g., security cameras, personnel, physical evidence).
- The victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary actions. If none of these factors is present, the University will likely respect the victim's request for confidentiality. If the University determines that it cannot maintain a victim's confidentiality, the University will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response. The University may not require a victim to participate in any investigation or disciplinary proceeding. If the University determines that it can respect a victim's request for confidentiality, the University will also take immediate action as necessary to protect and assist the victim.

### **SEEKING HELP, REPORTING, & HEALTH CARE OPTIONS**

Resources for sexual assault, stalking, dating violence and domestic violence survivors are available to survivors of sexual assault and relationship violence both at the University, the State and the National level, and the Counseling office.

Institutional personnel can assist a victim in notifying law enforcement authorities, including on-campus & local police, if the victim so chooses. The victim may decline to notify authorities.

The following individuals are trained personnel who can assist a survivor in the case of sexual misconduct or domestic violence:

**Title IX Coordinator: A Title IX coordinator's core responsibilities include overseeing the school's response to Title IX reports and complaints identifying and addressing patterns or systemic problems revealed by such reports and complaints. This means that the Title IX coordinator must have knowledge of the requirements of Title IX, of the school's own policies and procedures on sex discrimination, and of all complaints raising Title IX issues through the school.**

- Calleb Mosburg: Title IX Coordinator
  - 580-327-8415

- Office: Fine Arts Building, Room 126

**The following individuals are trained on- and off- campus advocates and counselors who can provide an immediate confidential response in a crisis situation whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process. The following individuals can also provide ongoing counseling support during the institutional disciplinary or criminal process:**

- NWOSU Counseling Services – Fine Arts Building, Room 207, 580-327-8439.  
A counselor is available 24-hours a day. Call NWOSU Campus Police at 580-327-8511 to reach the on-call counselor after 5 p.m. weekdays and on the weekends.
- Karmen Thomas: Northwest Domestic Crisis Services (available 24 hrs. a day)
  - 580-327-6648
  - 1-888-256-1215
- National Hotline
  - 1-800-522-SAFE

**Student complaints of discrimination or harassment against an employee can be reported to the Human Resources Director or the Title IX Coordinator.**

- Tim Lauderdale: Human Resources Director
  - 580-327-8530
  - Office: Herod Hall Building, Room 101
- Calleb Mosburg: Title IX Coordinator
  - 580-327-8415
  - Office: Fine Arts Building, Room 126

**On- and off- campus safety, law enforcement, and other first responders**

- Northwestern Alva Campus Police (available 24 hrs. a day)
  - 580-327-8511
  - Office: Student Center
- Northwestern Enid Campus Police (available 24 hrs. a day)
  - 580-213-3130
- Alva Police Department (available 24 hrs. a day)
  - 580-327-2121
  - 9-1-1
- Woodward Police Department (available 24 hrs. a day)
  - 580-254-8518
  - 9-1-1
- Enid Police Department (available 24 hrs. a day)
  - 580-242-7000
  - 9-1-1

**Health Care Options:**

- Alva: Share Medical Center
  - 580-327-2800

- 800 Share Drive, Alva OK
- Enid: Integris Bass Baptist Health Center
  - 580-233-2300
  - 600 S. Monroe Street, Enid OK
- Woodward Regional Hospital
  - 580-254-8406
  - 900 17<sup>th</sup> Street, Woodward OK

### **Third Party Reporting**

If a report is made by a third party, the report will be taken seriously and the Sexual Assault Response Team will meet to determine the process that will take place.

### **Anonymous Reporting**

Although the University encourages victim's to talk to someone, the University provides an online system for anonymous reporting. The system notifies the user that entering personally identifying information may serve as notice to the University for the purpose of triggering an investigation. To access the online reporting system go to <http://www.nwosu.edu/sexual-assault-anonymous-reporting-form>.

**RUSO TIP LINE:** In addition to the above methods to report discrimination or harassment, the Board of Regents of the Regional University System of Oklahoma, which governs the university, has established a "RUSO Tip Line" which is managed by EthicsPoint. The RUSO Tip Line allows concerns to be submitted anonymously.

- An employee, student, applicant for employment or admission, visitor, or other non-affiliated individual may report incidents of discrimination or harassment online using the RUSO Tip Line. The complaining party should visit [www.ruso.ethicspoint.com](http://www.ruso.ethicspoint.com) which is a secure server administered by EthicsPoint.
- An employee, student, applicant for employment or admission, visitor, or other non-affiliated individuals may also report incidents of discrimination or harassment by calling toll-free 866-898-8438. An EthicsPoint Contact Center Specialist will facilitate the call and compile the required information from the complaining party.
- EthicsPoint will forward the required information to designated RUSO and University officials who will then conduct an appropriate investigation and resolution.
- An employee, student, applicant for employment or admission, visitor, or other non-affiliated individual is also encouraged to continue communicating any concerns directly to appropriate campus offices, as listed above.

**NOTE:** Everyone is required to report child abuse and neglect to DHS (DHS hotline #: 1-800-522-3511) and/or local law enforcement; there are no exceptions. If the child is in imminent danger, call 9-1-1 and the DHS hotline.

### **Legal Assistance**

Northwest Domestic Crisis Services are available to help in search of legal assistance.

### **Visa and Immigration Assistance**

The nearest office for visa and immigration assistance is the USCIS-Application Support Center. The university can provide transportation if needed.

- USCIS-Application Support Center  
4400 Southwest 44<sup>th</sup> Street Suite A  
Oklahoma City, OK 73119-2800

### **Responsible Employees**

All full time employees of the university uphold the standard of being a responsible employee. A “responsible employee” is a university employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. When a victim tells a responsible employee about an incident of sexual assault, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A responsible employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the victim that the University will need to determine what happened. To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University’s response to the report. A responsible employee should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligation – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee, should tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX coordinator, the responsible employee will also inform the coordinator of the victim’s request for confidentiality.

### **PRESERVING EVIDENCE**

In order to best preserve evidence campus police/law enforcement officials should be contacted as soon as possible after an assault has occurred. If at all possible a sexual assault victim, who has the option of going for help at the nearest emergency room, should not shower, change clothes or brush his or her teeth. Preserving evidence may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protective order. Victims are encouraged to call the campus police or local law enforcement to initiate a report and to help preserve evidence. It is up to the victim if prosecution is pursued.

The University will provide, in writing, information about the importance of preserving evidence as may be necessary to the proof of criminal dating violence, domestic violence, sexual assault, or stalking, or in obtaining a protective order.

Victims have the options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services. Victims can get a rape kit exam at the Woodward Regional Hospital. Travel can be provided by:

- Kaylyn Hansen: Director of Student Life and Counseling (available 24 hrs. a day)
  - 580-327-8439 (from 8:00am-5:00pm)
  - 580-327-8511 (ask for Kaylyn to be notified and leave a call back number)
  - Office: Fine Arts Building, Room 207
- Karmen Thomas: Northwest Domestic Crisis Services (available 24 hrs. a day)
  - 580-327-6648
  - 1-888-256-1215

### **INVESTIGATION INFORMATION**

The criminal investigation, should the individual choose to pursue criminal prosecution, will be conducted by law enforcement. The University has an obligation to investigate any allegations that would be a violation of the student conduct code, Sexual Misconduct Policy, or employee policies. All reports of sexual misconduct, even reports made by third parties, will be reported to the Title IX Coordinator.

An investigation will occur as to whether there has been a violation of University policy. Whether to prosecute criminally is at the discretion of the local district attorney, at the request of the student or employee, in determining what is best for him or her. Victims have the right to file a criminal complaint and a Title IX complaint simultaneously. Mediation is never appropriate in sexual misconduct cases.

The use of alcohol or drugs by either party, in conjunction with a sexual assault, does not alleviate responsibility or diminish the serious nature of the offense. When alcohol or drug use is involved, a victim will not be sanctioned with an alcohol or drug violation and should not let his or her use of alcohol or drugs be a deterrent to reporting the incident.

After sexual misconduct reported, law mandates the following be observed:

- The University must promptly complete an investigation of the allegations.
- No contact orders, restraining orders, and protective orders can be implemented to protect the victim by contacting Campus Police or the NWOSU Victim's Advocate.
- Temporary suspension of an alleged perpetrator is sometimes warranted.

### **Accommodations**

The University will also provide written notification to victims about options for, and available assistance in, changing transportation and working situations, in addition to academic and living situations. The University will make these accommodations if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Accommodations include, but are not limited to, the options for:

- changing academic, living, transportation, and working situations
- altering academic schedules

- withdrawal from/retake a class without penalty
- access to academic support (tutoring)
- assistance in reporting/filing a complaint with law enforcement
- No Contact order between the complainant and the respondent, which would prohibit contact between both parties through any means of communication, as well as prohibit others from making contact on their behalf
- Emergency Protective Order between the complainant and the respondent, which is a court-ordered petition that prohibits contact between the complainant and respondent (the Victim Advocate, Karmen Thomas, can assist in filing for an Emergency Protective Order)

**Investigation Proceedings shall:**

- Provide a prompt, fair, and impartial investigation and resolution
- Be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

**Rights and roles of both parties in the hearing process:**

- When a student or employee reports he or she has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether on or off campus, the institution will provide a written explanation of the student's or employee's rights and options.
- Victims will receive a written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available for victims within the institution and the community.
- Notice of hearing to both parties.
- The accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.
- Opportunity for both parties to present witnesses and other evidence.
- Types of evidence that may or may not be presented, include but are not limited to:
  - Prohibiting questioning or evidence about the complainant's prior sexual conduct with anyone other than the alleged perpetrator.
  - Clarifying that evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.
- Either party may raise issues related to potential conflicts of interest of investigators by contacting the Title IX Coordinator.
- The school will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of information related to the outcome of the proceeding.

The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct or domestic violence in order to protect students' rights and personal safety.



**STUDENT INVESTIGATION PROCESS****ONCE YOU HAVE FILED A COMPLAINT WITH THE TITLE IX COORDINATOR**

We want you to be knowledgeable about the process that occurs once a complaint with the Title IX Coordinator is filed. The following describes the investigation process, the hearing and the outcome of the hearing. The Title IX Coordinator will be available to explain the process as requested. The Title IX investigation process will be prompt, fair, and impartial. This means the process will be completed within a reasonable timeframe as designated below and without undue delay. The process will be conducted in a manner that is consistent with the university's policies and will be transparent to all parties. Lastly, the Title IX process will be conducted by officials who do not have conflict of interest or bias for the complainant or respondent.

**INVESTIGATION**

- a. You will be notified of receipt of your complaint and the actions the university official will take.
- b. A university official will meet with you to discuss the complaint submitted, review the investigation and hearing process, and determine the outcome you desire from your complaint.
- c. An investigation will be conducted by a non-biased Title IX Investigator. This investigation will include:
  - meeting personally with the complainant,
  - meeting personally with the student(s) accused,
  - meeting personally with any witnesses,
  - and
  - reviewing any documentary evidence.
- d. The investigation of complaints will be adequate, reliable, and impartial. The Title IX Investigator will compile an investigation report.
- e. The investigation process can take up to 60 days. If at any point either party would like an update of the investigation process all they need to do is ask and an update will be provided.
- f. The university official will determine if a Title IX conduct hearing is possible based on the available information.
- g. If it is determined that the university will proceed with a formal Title IX conduct hearing, the complainant and the responding student(s) will be notified of the hearing date.

**HEARING**

- a. Hearing notification will occur at least five administrative office days in advance and include the hearing date, time and location. Hearings will be scheduled around academic schedules.
- b. Allegations of sexual misconduct and sexual harassment will be heard by the Sexual Assault Response Teams hearing committee.

- c. The hearing includes opening statements, presentation of the investigation report, information about the incident, presentation of information by witnesses, and closing statements.
- d. Each party is permitted to have a person of their choosing to accompany them throughout the hearing as an advisory.
- e. All parties are permitted to be present during the hearing (except during deliberations of the panel). All parties can be in the same room in a pre-arranged, non-threatening set-up or in separate rooms with a video conference set up.
- f. All parties are permitted to make statements, present witnesses and information during the hearing. Witnesses and information need to be directly related to the incident.
- g. The Sexual Assault Response Teams hearing committee will make a determination of the policy violations and, if any, the appropriate sanction(s).
- h. The standard of proof used in all university hearings is preponderance of the evidence, which means the determination to be made is whether it is more likely than not a violation occurred. This is significantly different than proof beyond reasonable doubt, which is required for a criminal prosecution.

## **OUTCOME**

- a. Possible outcomes include the entire range of sanctions listed in the Sexual Misconduct Policy. When it is determined that sexual misconduct is more likely than not to have occurred, the outcome can include separation from the university.
- b. Both parties have the right to be informed, in writing, of the outcome. You will be notified within seven business days after the hearing, at the same time the respondent is informed of the outcome.
- c. Both parties have the right to appeal the decision reached through the hearing proceedings within five administrative office days after notification of the hearing outcome.

## **STUDENT SANCTIONS**

The Sexual Assault Response Team may authorize the following sanctions for violation of university regulations and may include one or a combination of the following:

- a) Warning.
- b) The imposing of specified restrictions, including but not limited to: letter of apology, presentation of a workshop, preparation of a research paper or project, social probation, community service, assessment or evaluation, counseling, restitution for damages, punitive fines, eviction from university housing, loss of privileges (i.e., visiting privileges in housing or denial of access to computer services), or any combination of the above, and any other appropriate penalty.
- c) Conduct probation. A student may be placed on conduct probation. A second violation means that disciplinary action will be based on both charges. The record of conduct probation is kept in

the student's personnel folder and the disciplinary hold on his or her record is removed at the discretion of the conduct officer.

d) Suspension. A student may be suspended from the university for reasons of conduct for a definite period of time not less than the remainder of the current semester in which he or she is enrolled. The student who has been suspended may apply for readmission at the close of the period for which he or she was suspended. A suspension hold will be placed on the transcript during the period of suspension.

e) Expulsion. When a student is expelled, a record of this action will be made a part of the student's permanent record in the Office of the Registrar. A student who is expelled will not be allowed to re-enter the university.

f) Degree revocation or rescission of credit.

**Temporary Suspension:**

a) The Sexual Assault Response Team may impose a university or university housing temporary suspension prior to the investigation.

b) Temporary suspension may be imposed only:

- 1) To ensure the safety and well-being of members of the university community or preservation of university property;
- 2) To ensure the student's own physical or emotional safety and well-being; and/or
- 3) If the student poses an ongoing threat of disruption of, or interference with, the normal operations of the university.

c) During the temporary suspension, a student may be denied access to university housing and/or to the campus (including classes) and/or all other university activities or privileges for which the student might otherwise be eligible, as the conduct officer may determine to be appropriate.

d) The temporary suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a student conduct conference, if required.

e) The student shall be notified in writing of this action and the reasons for the temporary suspension. The notice shall include the time, date, and place of a subsequent show cause meeting at which the student may show cause why his or her continued presence on the campus or in university housing does not constitute a threat.

**APPEALS PROCESS**

The victim, the alleged perpetrator, or both may appeal on the basis of procedural error or if previously unavailable relevant evidence could significantly impact the outcome of a case or where a sanction is substantially disproportionate to the finding. The Title IX Coordinator does not render the decision of the appeal but makes sure the proper procedure is followed. The Title IX Coordinator will present the appeal to the University President and a committee will render the decision.

**Initiation of the Appeal:** To initiate an appeal, the involved party must make the request. The request and reason for appeal shall be submitted in writing, by hard copy, signed, and dated, to the Title IX Coordinator within five administrative office days (not including state holidays or weekends) after the disciplinary decision is rendered.

**Composition and Quorum of the Committee:** A committee will be created to consider an appeal on the basis of procedural error or if previously unavailable relevant evidence could significantly impact the outcome of a case or where a sanction is substantially disproportionate to the finding. The committee shall be appointed by the president of the university who shall have the authority to determine the composition of the committee. The committee members will have background training in sexual assault and misconduct. The committee may include (1) faculty members whose primary duties are not concerned with the administration of student conduct and affairs; (2) students, and (3) administrative employees whose primary duties are not concerned with the administration of student conduct and affairs.

**Quorum:** A quorum of the committee shall consist of a majority of the currently appointed members of the committee.

**Explanation of Rights:** Prior to the commencement of any disciplinary action provided for herein, the Title IX Coordinator shall explain to the accused student the student's rights under the terms and conditions of these rules and regulations.

**Hearing Before Appeals Committee:**

- a) The Title IX Coordinator will notify the accused student in writing of the date, time, and place of the hearing, the reason for the hearing, and the procedures and possible outcomes.
- b) All hearings are closed and information presented in them and all supporting documents are confidential.
- c) During the hearing, the student may be accompanied by an advisor of the student's choice so long as the availability of the advisor does not hamper the timeliness of the hearing. The student may choose to have an attorney serve as advisor; however, the advisor does not represent the student in the hearing and the student will be expected to speak for him or herself at all times.
- d) During the hearing, the student has the opportunity to offer information on his or her own behalf and to review all information, statements, or evidence presented.
- e) The chair of the committee will decide any questions or objections to hearing procedures that are raised during the hearing.
- f) Members of the committee may ask questions of any person present during the hearing and the chair will invite questions and comments from the accused student if present. Since decisions are based only on the preponderance of evidence introduced at the hearing, the chair may reconvene the hearing if the committee decides that essential information has not been presented. The hearing shall be reconvened at the earliest practical time that the necessary information will be available.

g) After the chair has determined that all necessary information has been presented and questions answered, the committee will go into closed session and all other persons will be excused. The committee will determine whether or not it believes the accused student is responsible for a violation of the regulations and, if so, whether the penalties determined by the conduct officer are reasonable. The committee hearing will result in one of two outcomes:

- 1) that the Sexual Assault Response Team's determination is affirmed; or
- 2) that the Sexual Assault Response Team's determination is modified or reversed.

### **FOLLOWING AN INVESTIGATION**

Both the accuser and the accused shall be simultaneously informed, in writing, of:

- the outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking.
- the institution's procedures for the accused and the victims to appeal the results of the institutional disciplinary proceeding.
- any change to the results that occur prior to the time that such results become final.
- when results become final.

Compliance with the above paragraph does not constitute a violation of the Family Educational Rights and Privacy Act. For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused.

Upon completion of an investigation, the University will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate.

If the alleged victim is deceased as a result of such a crime or offense, the next of kin of such victim shall receive the written notifications listed above.

### **FACULTY AND STAFF INVESTIGATION PROCEDURES**

If an NWOSU employee believes that he or she has been the victim of sexual harassment/misconduct/violence/assault in the university community, he or she may promptly report, without fear of reprisal, the facts of the incident and the name(s) of the individual(s) involved to the Title IX Coordinator, located in Fine Arts Building, Room 126, or at (580) 327-8415. This report initiates a complaint.

Alternatively, an employee may report the situation to his or her immediate supervisor, department head, or Dean, who will immediately notify the Title IX Coordinator of the report. This report initiates a complaint. Supervisors must immediately report any complaints they receive or incidents of alleged harassment or discrimination they witness to the Title IX Coordinator.

The Title IX Coordinator (or an alternate investigator, where appropriate) will promptly, fairly and thoroughly investigate all claims of harassment and discrimination, regardless of whether such complaints are reduced to writing. All complaints of discrimination and harassment will be treated in the strictest confidence possible under the particular circumstances.

Upon receipt of a complaint, the Title IX Coordinator (or alternative investigator) will make every effort, within thirty calendar days, to complete a thorough investigation of the circumstances of the allegations. However, if additional time is needed to conduct a thorough investigation, the Title IX Coordinator may, in his/her discretion, extend the time for completing the investigation as reasonably necessary. In this case, the complainant and the respondent will be notified of the estimated time needed to complete the investigation.

The investigation will include interviews with the complaining party, the respondent, and any material witnesses identified, as well as a review of any documents or other evidence. The complaining party and the respondent will be kept apprised of the conduct of the investigation and will be given the opportunity to provide any additional relevant information to the investigator, including the names of additional witnesses to contact and/or additional documents to review before the investigation is closed. The complainant and respondent will be promptly notified of the final determination. The Title IX Coordinator has no independent authority to impose sanctions.

If the Title IX Coordinator finds that there has been a violation and if the immediate supervisor, Dean, or division/departments head seeks advice as to the appropriate penalty, the Title IX Coordinator may provide a recommendation as to the appropriate sanction. The appropriate university official will be responsible for deciding upon and imposing disciplinary action as soon as reasonably possible.

Sanctions imposed on those individuals who have been found to be in violation of the university's Sexual Misconduct Policy shall be commensurate with the severity and/or frequency of the conduct, and shall be adequate and sufficient to prevent such conduct in the future. Appropriate disciplinary action may include a range of actions up to and including dismissal.

Please refer to the Faculty Handbook 4.6 Sexual Harassment Policy or the Staff Handbook 7.8 Sexual Harassment Policy for more detailed information.

### **RETALIATION**

The university will not tolerate retaliation against a person who, in good faith, brings a complaint forward. Retaliation against an individual who has brought a complaint forward or against an individual who has participated in an investigation or conduct process is prohibited.

Any attempt to prevent, penalize or retaliate against a person for filing a complaint or participating in the investigation of a complaint of sexual misconduct or domestic violence will be treated as a separate and distinct violation of the Sexual Misconduct and Domestic Violence Policy.

### **SEXUAL VIOLENCE – RISK REDUCTION TIPS**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Below, is information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks:

- If you have limits, make them known as early as possible.

- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

Below are warning signs of abusive behavior:

- Threats of violence or abuse
- Breaking objects
- Use of force during an argument
- Jealousy
- Controlling behavior
- Unrealistic expectations
- Isolation
- Blames others for problems
- Blames others for their feelings
- Hypersensitivity
- Cruelty to animals
- “Playful” use of force during sex
- Rigid sex roles

### **BYSTANDER INTERVENTION**

To prevent sexual violence, it is important that people are considered as potential witnesses or bystanders to behaviors related to sexual violence. As a witness to these behaviors, there are certain ways to step up to prevent a risky situation from escalating. Below are safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual.

In order to intervene, someone has to:

1. *Notice the incident:* Bystanders first must notice the incident taking place. It’s important to become attune to what situations may be risky; (e.g. if you’re at a party, and you see someone stumbling as they are being led into a different room, this is a risky situation).
2. *Interpret the incident as emergency:* By “emergency,” we mean a situation wherein there is a risk of sexual or domestic violence occurring in the near future.
3. *Assume responsibility for intervening:* It has been found that often, people believe that someone else will help in a situation where there are many people around. However, it is important to realize that others may also be thinking the same thing. If you’re unsure if you should do something, ask a friend what they think – it might be the case that they’ve been thinking the same thing.
4. *Have the bystander intervention skills to help:* There are a number of different techniques that someone can use to intervene in a risky situation, some are listed below.

## The 4 Ds (Bystander Intervention Techniques)

Please remember that your safety is of the utmost importance. When there is a situation that threatens physical harm to yourself or another student, ask someone for help or contact the police.

1. *Direct:* Step in and address the situation directly. For example, “That’s not cool. Please stop.” or “Hey, leave them alone.” This technique tends to work better when the person that you’re trying to stop is someone that knows and trusts you. It does not work well when drugs or alcohol are being used because someone’s ability to have a conversation with you about what is going on may be impaired, and they are more likely to become defensive.
2. *Distract:* Distract either person in the situation to intervene. For example, “Hey, aren’t you in my Spanish class?” or “Who wants to go get pizza?” This technique is especially useful when people under the influence of alcohol or drugs because they are easily distracted than those that are sober.
3. *Delegate:* Find others who can help you to intervene in the situation while you distract the other, asking someone to go sit with them and talk, or going and starting a dance party right in the middle of their conversation. If you don’t know either person in the situation, you could also ask around to see if someone else does and check in with them. See if they can talk to their friend, text their friend to check in, or intervene.
4. *Delay:* For many reasons, you may not be able to do something right in the moment. For example, if you’re feeling unsafe or if you’re unsure whether or not someone in the situation is feeling unsafe, you may want to check in with the person. In this case, you can combine a distraction technique by asking the person to use the bathroom with you or go get a drink with you to separate them from the person that they are talking with. Then, you can ask them, “Are you okay?” or “How can I help you get out of this situation?”

Information from Vassar College Bystander Intervention website,  
<http://savp.vassar.edu/prevention/bystander-intervention.html>

## How to Support a Friend

If your friend is a victim of sexual harassment or sexual harassment or sexual violence, the following information can offer guidance on how to help and support:

- a. Listen and accept what you hear. Do not press for details. Allow your friend to reflect on what has happened and to share some of her/his feelings.
- b. Keep what is said confidential.
- c. Let your friend know that she/he is not to blame. Many victims tend to blame themselves for the offender’s actions, especially if the perpetrator was an acquaintance.
- d. Encourage your friend to obtain a medical examination.
- e. Allow your friend to make his/her own decision about their next steps.
- f. Seek emotional support for yourself.
- g. Accept their choices and decisions to the assault even if you disagree with what they have chosen to do. It is more important that they feel empowered to make choices and take back control than it is for you to impose what you feel you think is the correct decision.
- h. Encourage your friend to file a police report. Filing a report is not a commitment to prosecute, but will allow the gather of information and evidence. The information and evidence preserve future options regarding criminal prosecution, university disciplinary



actions and/or civil actions against the perpetrator. Information can be helpful in supporting other reports and/or preventing further incidents (even anonymous reports are somewhat useful).

- i. Remind your friend of campus resources including OSU Victim Advocate, Title IX, and University Counseling Services.

### **CAMPUS SEXUAL ASSAULT PREVENTION**

Northwestern Oklahoma State University developed an ongoing campaign, *1is 2 Many*. The ongoing campaign provides the information provided in the primary prevention and awareness programs. The awareness programs promote the awareness of rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking.

The “prevention and awareness programs,” mandated under VAWA, for incoming students and new employees include:

- a statement that the institution prohibits domestic violence, dating violence, sexual assault, and stalking;
- the definition of domestic violence, dating violence, sexual assault, and stalking in the applicable jurisdiction;
- the definition of consent, in reference to sexual activity, in the applicable jurisdiction.

Prevention activities include but are not limited to:

1. **Haven:** Mandatory online Sexual Assault and Alcohol Education for students and employees. Enforced through Ranger Connection courses.
2. **Prevention Activities:** Activities throughout the school year to educate student on sexual assault.
3. **Title IX Trainings:** Title IX Trainings are offered to all employees of the university.
4. **Ranger Connection Courses:** The counselor met with Ranger Connection classes to inform students of Sexual Assault and Alcohol services available on campus. Students also received the student handbook with the Sexual Misconduct Policy.
5. **Northwest Domestic Crisis Services on campus:** Karmen Almgren, victim advocate, meets with students every Monday as a peer counselor to help survivors.
6. **Freshman Orientation:** A sexual assault session was held at freshman orientation. There was a brief discussion about mandatory training and bystander intervention.
7. **1is2many Campaign:** The 1is2many campaign is an ongoing campaign that promotes a culture that 1 sexual assault victim is 2 many.
8. **Sports Education:** The NWOSU Victim’s Advocate and NWOSU School Counselor met with all teams in the fall semester to discuss domestic violence education.
9. **Ranger Lend a Hand:** Students wrote positive messages to Sexual Assault and/or Domestic Violence Survivors. The messages were displayed for the campus community to view.
10. **Milk, Cookies, and Conversation about Human Trafficking:** Guest Speaker, Ruth Welters-Smith discussed human trafficking awareness day to make students more educated on the topic.
11. **Ranger Basketball (Domestic Violence Awareness):** Purple Rally Towels were thrown in support of Domestic Violence Survivors.
12. **Sexual Assault Awareness Month:** Teal ribbons were tied on NWOSU campus trees to show support for sexual assault victims.
13. **Sexual Health 101:** A speaker from the health department spoke about sexual health education, communication, and exploration.

### **SEXUAL MISCONDUCT DEFINITIONS**

NWOSU prohibits sexual misconduct in any form. Sexual misconduct can occur between

persons of the same or different sex/gender. Sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidations, coercion, or manipulation.

**SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:**

- 1. Sexual Harassment**
- 2. Non-Consensual Sexual Contact (or attempts to commit same)**
- 3. Non-Consensual Sexual Intercourse (or attempts to commit same)**
- 4. Sexual Exploitation**
- 5. Stalking**
- 6. Domestic Violence**
- 7. Dating Violence**

1. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, & other verbal or physical conduct or communication of a sexual nature when:

- a) Submission to such conduct or communication is made either explicitly or implicitly as a term or condition of educational benefits, employment, academic evaluations or other academic opportunities,
- b) Submission to or rejection of such conduct by an individual is used as the basis for an employment decision or academic decision affecting such individual, or
- c) Such conduct is sufficiently severe, pervasive or persistent and objectively offensive that it has the effect of creating an intimidating, hostile or offensive environment that negatively affects an individual's academic or employment environment.

Sexual harassment does not include verbal expressions or written materials that are relevant and appropriately related to course subject matter or curriculum, and this policy shall not abridge academic freedom or the university's educational mission.

Sexual harassment can create a hostile environment. Sexual harassment should be reported even if it doesn't reach the point of creating a hostile environment. A hostile environment is defined as subjectively and objectively offensive and sufficiently severe or pervasive to alter the conditions of the victim's educational, employment or university environment.

Sexual harassment could occur off-campus and still have an effect on an individual's educational, employment or university environment as well as create a hostile environment. A one-time non-consensual contact could also create a hostile environment.

Examples of behavior that could be sexual harassment:

- Unwelcome, sexual flirtation, advances, or propositions of sexual activity.
- Asking about someone else's personal, social or sexual life or about their sexual fantasies, preferences or history.
- Discussing your own personal sexual fantasies, preferences or history.
- Repeatedly asking for a date from a person who is not interested.
- Whistle, cat calls or insulting sounds.

- Sexually suggestive jokes, innuendoes or turning discussions into sexual topics.
- Sexually offensive or degrading language used to describe an individual or remarks of a sexual nature to describe a person's body or clothing.
- Calling a person a "hunk," "doll," "babe," "sugar," "honey," or similar descriptive terms.
- Displaying sexually demeaning or offensive objects and pictures.
- Making sexual gestures with hands or body movement.
- Rating a person's sexuality.
- Unwelcomed touching of a person's body including massaging a person.

2. **Non-Consensual Sexual Contact**: Non-Consensual Sexual Contact is defined as any intentional sexual touching, however slight, with any object without consent of that person.

3. **Non-Consensual Sexual Intercourse**: Non-Consensual Sexual Intercourse is defined as any sexual intercourse (anal, oral, or vaginal) however slight, with any object, with another person without that person's consent.

Both Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse are violations of University policy, and can be a crime. The University investigates these acts when:

1. Committed between faculty, staff, or students; or
2. Where perpetrated on University property, or in a context controlled by the University.

Examples of Prohibited Conduct:

Conduct prohibited under the Non-Consensual Sexual Conduct and Non-Consensual Sexual Intercourse policies includes, but is not limited to:

- a) Unwanted sexual contact with a stranger or friend, acquaintance, spouse, current dating partner, or former intimate partner;
- b) Unwanted sexual contact committed by force, threat, surprise, coercion, or intimidation;
- c) Sexual intercourse without the active consent of the other person;
- d) Indecent exposure or non-consensual voyeurism.

4. **Sexual Exploitation**: Sexual Exploitation is defined as taking nonconsensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit a person other than the one being exploited. The term Sexual Exploitation also covers sexual misconduct which does not fall within the definitions of sexual harassment, non-consensual sexual contact or non-consensual sexual intercourse.

Examples of Sexual Exploitation:

- Sexual voyeurism
- Taking photos, video, or observing a third party in a private act without consent,
- Engaging in prostitution,
- Engaging in sexual activity with another person while knowingly affected with HIV or other STD,
- Administering drugs or alcohol to another without his or her knowledge or consent.

5. **Stalking**: Oklahoma law defines stalking as willfully, maliciously, and repeatedly following or harassing another person in a manner that:

1. Would cause a reasonable person or a member of the immediate family of that person 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.

Stalking is to engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

Stalking is defined to mean two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Substantial emotional distress would include significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking is the willful, malicious, and repeated following or harassment of a person in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period of time, demonstrating a continuity of purpose or unwelcomed contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued. This may include repeatedly contacting another person (through any means, such as in person, by phone, electronic means, text messaging, etc.), following another person, or having others contact another person.

Any actions that a stalker takes to contact, harass, track or frighten another that could include repeatedly:

- following
- unsolicited visits or communication
- using online social media inappropriately
- damaging property
- showing up at places an intended victims frequents
- sending pictures
- creating a website about a target of stalking
- sending unsolicited gifts
- stealing things that belong to intended victims
- calling repeatedly

Stalking can occur by someone that is known casually, a current boyfriend or girlfriend, someone dated in the past or a stranger.

Definition consistent with Violence Against Women Act Volume 79 CFR and Oklahoma state statute.

6. **Domestic Violence:**

Domestic violence is a crime of violence committed by a;

- current or former spouse or intimate partner of the victim,
- person with whom the victim shares a child in common,
- person who is cohabitating with or has cohabited with the victim as a spouse,
- person similarly situation to a spouse of the victim.

Domestic violence is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic or psychological actions or threat of actions that influence another person.

Definition consistent with Violence Against Women Act Volume 79 CFR.

7. **Dating Violence:**

Dating Violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with another person. The existence of such relationship shall be determined based on a consideration of the following factors:

- Length of the relationship
- Type of relationship
- Frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts that meet the definition of domestic violence.

Definition consistent with Violence Against Women Act Volume 79 CFR.

**ADDITIONAL APPLICABLE DEFINITIONS**

**Sexual Assault:** The intentional touching, mauling or feeling of the body or private parts of any person in a lewd and lascivious manner and without the consent of that person. This can be through clothing.

**Sexual Violence:** Sexual violence is physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A number of different acts fall into a category of sexual violence, including sexual misconduct, stalking, dating violence, and domestic violence.

**Sexual Misconduct:** Sexual misconduct is a broad term encompassing any non-consensual contact of a sexual nature. Sexual misconduct may vary in severity and consists of a range of behavior or attempted behavior including, but not limited to, the following examples of prohibited conduct:

a) **Unwelcome sexual touching/exposure**

The touch of an unwilling or non-consensual person's intimate parts (such as genitalia, groin, breast, buttocks, mouth or clothing covering same); touching an unwilling person with one's own intimate parts; or forcing an unwilling person to touch another's intimate parts. This also includes indecent exposure and voyeurism.

b) **Non-consensual sexual assault**

Unwilling or non-consensual penetration of any bodily opening with an object or body part. This includes, but is not limited to, penetration of a bodily opening without effective consent through the use of coercion.

c) **Forced sexual assault**

Unwilling or non-consensual penetration of any bodily opening with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another's mental or physical condition (such as lack of consciousness, incapacitation due to drugs or alcohol, age, or disability) of which the assailant was aware or should have been aware.

**Consent:**

Effective Consent is:

- informed;
- freely and actively given;
- mutually understandable words or actions; and
- willingness to participate in mutually agreed upon sexual activity.

Further:

- Initiators of sexual activity are responsible for obtaining effective consent.
- Silence or passivity is not effective consent.
- The use of intimidation, coercion, threats, force or violence negates any consent obtained.
- Consent is not considered effective if obtained from an individual who is incapable of giving consent due to the following:
  - mental, developmental, or physical disability; or
  - s/he is under the legal age to give consent; or
  - s/he is incapacitated by alcohol, beer or under the influence of drugs.

Individuals who commit acts of sexual misconduct assume responsibility for their behavior and must understand that the use of alcohol or other drugs does not reduce accountability for their actions.

Examples of sexual misconduct violations:

- Ignoring an individual's protest and engaging in sexual activity.
- Convincing somebody to have sex likely constitutes intimidation or coercion. If someone is coerced, the yes is not effective consent.
- Drinking and/or drug use may render an individual incapable of giving consent for sexual activity. For example, someone who is incapacitated may agree to have sex at the time, but have no memory of the consent. This person may have been functioning in a "blackout" and could not give effective consent.
- Holding a person down or preventing a person from leaving the room and forcing him or her to engage in sexual activity against his/her will.

**Incapacitation:** Due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability that prevents the individual from having the capacity to give consent.

**Retaliation:** The University will not tolerate retaliation against a person who, in good faith, brings a complaint forward. Retaliation against an individual who has brought a complaint forward or against an individual who has participated in an investigation or conduct process is prohibited.

Retaliation is any attempt to:

- penalize, or
- take an adverse employment, educational, or institutional benefit action, including, but not limited to:
  - making threats,
  - intimidation,
  - reprisals, or
  - taking other adverse action
- against a person because of filing a complaint, participation in a complaint or the investigation of discrimination and/or harassment, sexual harassment, sexual conduct, or sexual violence.

**Rape:** means all acts of sexual intercourse involving oral, vaginal, or anal penetration accomplished without consent and with a male or female (who may be of the same or opposite sex as the perpetrator).

**Rape by instrumentation:** means any act in which any inanimate object or any part of the human body, not intended for 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.

**Sexual battery:** shall mean the unwanted touching, mauling or feeling of body or private parts of any person in a touching of a person's genitalia, buttock or breasts.

**Hostile Environment:** Any situation in which there is

- unwelcome conduct based on sex or gender
  - that is severe and
  - pervasive and persistent and
  - objectively offensive
- such that it alters the conditions of education or employment
- from both a subjective (the alleged victim's) and objective (reasonable person's) viewpoint.

**Intimidation:** implied threats or acts that cause an unreasonable fear of harm in another.

**Force:** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

### **POLICY UPDATES**

Policy and procedures may be updated as needed and the most current policy can be found in the on-line policy under Sexual Misconduct Policies & Procedures. The updated policy can also be found on the Sexual Misconduct or Counseling websites.