

SEARCH



# STUDENT HANDBOOK

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# GENDER-BASED MISCONDUCT POLICY FOR STUDENTS

## I. Introduction

Cameron University ("University") is committed to fostering an environment that is free from gender-based discrimination and harassment, including sexual assault and all other forms of gender-based misconduct. The University recognizes its responsibility to increase awareness of such misconduct,

prevent its occurrence, support victims, deal fairly and firmly with offenders, and diligently investigate reports of misconduct. In addressing issues of gender-based misconduct, all members of the University must come together to respect and care for one another in a manner consistent with our deeply held academic and community values.

The University complies with Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities. Gender-based misconduct is a form of sex-based discrimination. This Policy and the accompanying Procedures are intended to ensure a safe and non-discriminatory educational environment and comply with Title IX and other applicable laws.

Gender-based misconduct comprises a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature. Sexual harassment, sexual assault, sexual exploitation, gender-based harassment, stalking, domestic violence, and dating violence are all forms of gender-based misconduct. Gender-based misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship. Gender-based misconduct can be committed by anyone regardless of gender identity, and it can occur between people of the same or different sex or gender. The University does not tolerate any form of gender-based misconduct, and all gender-based misconduct is prohibited by this Policy.

To further the goal of eliminating gender-based misconduct from its community, the University offers: (1) educational and preventative programs; (2) services for victims and others affected by gender-based misconduct; (3) accessible, prompt, and fair methods of investigation and resolution of reports of misconduct; and (4) protections designed to prevent against recurrence and remedy its discriminatory effects.

This Policy and the accompanying Procedures set forth how the University defines and addresses gender-based misconduct involving students. The Policy first specifies prohibited conduct. It then

describes available resources and reporting options, and explains whether and to what extent interactions with various resources are confidential. Finally, the Policy discusses measures that may be available in particular cases to support and assist students. The Procedures spell out the investigation, hearing, the sanctioning process, and the affected students' rights in connection with the process.

The University is founded on the principles of free speech and academic freedom. These principles create a stimulating and challenging learning environment. They promote discourse on ideas. Accordingly, nothing in this policy shall be construed to inhibit or abridge these principles. This policy does not apply to curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

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## **II. Scope of the Policy and Procedures**

This Policy governs gender-based misconduct involving students that: (1) occurs on any University campus or in connection with University programs or activities; (2) creates a hostile environment for University students; or (3) involves a respondent who is a current undergraduate or graduate student at the University. The Policy applies regardless of a person's gender, gender identity, gender expression, sexual orientation, age, race, nationality, class status, ability, religion, or other protected status.

The Procedures describe the investigation and disciplinary process that apply when the respondent is a current undergraduate or graduate student at the University, including students on leave. If the respondent is a University employee, faculty, or other person doing business with the University, the investigation and disciplinary processes described in the Faculty Handbook and/or Employee Handbook will govern.

Students are entitled to appropriate support from the University and to be treated with respect, dignity, and sensitivity in connection with all gender-based misconduct incidents. The University's Title IX

Coordinator serves as the central point of contact for all University students affected by gender-based misconduct.

Note: While this Policy and the Procedures identify the University office or employee who will typically perform certain roles or duties, the University may designate other University offices or employees to perform any roles or duties described in the Policy or Procedures.

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### **III. Prohibited Conduct**

Gender-based misconduct comprises a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person's consent is sexual assault, which is a form of gender-based misconduct under this Policy. Sexual harassment, sexual exploitation, gender-based harassment, stalking, domestic violence, and dating violence are also forms of gender-based misconduct. Intimidation for one of these purposes is gender-based misconduct, as is retaliation following an incident of alleged gender-based misconduct or attempted gender-based misconduct. Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. This Policy prohibits all forms of gender-based misconduct.

#### **A. Consent**

Any non-consensual sexual activity is gender-based misconduct. Consensual sexual activity requires unambiguous communication and mutual agreement for the act in which the participants are involved. Sexual activity accompanied by coercion or force is not consensual. A person cannot give consent if he or she lacks the ability to make or understand the decision because of disability, lack of sleep, consumption of alcohol or drugs, or if he or she is unwillingly physically constrained. A sleeping or

unconscious person cannot give consent. The use of alcohol or drugs does not justify or excuse gender-based misconduct and never makes someone at fault for experiencing gender-based misconduct.

## **B. Examples of Gender-Based Misconduct**

Specific categories of gender-based misconduct and other important definitions used in this Policy are included in the Definitions section following the Procedures, along with scenarios illustrating specific instances of gender-based misconduct. For purposes of illustration, the following list sets forth examples of conduct that could constitute gender-based misconduct under those definitions, but is not meant to be all-inclusive:

- Coercion for a date or a romantic or intimate relationship
- Unwelcome touching, kissing, hugging, or massaging
- Use of unwanted force in connection with sexual activity or attempted sexual activity
- Sexual contact with a person who has not clearly consented
- Unwelcome remarks about the private parts of a person's body
- Belittling remarks about a person's gender or sexual orientation based on gender-stereotyping
- Videotaping or photographing of activity of a sexual or private nature without the consent of the person(s) being videotaped or photographed
- Obscene gestures of a sexual or gender-based nature
- Derogatory posters, graffiti, cartoons, calendars, drawings, pictures, or text, whether disseminated through hard copy or electronically through e-mail, the Internet, or other digital mediums to facilitate any of the behaviors listed above

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## **IV. RESOURCES FOR STUDENTS**

### **A. Immediate Assistance**

The University encourages all students affected by gender-based misconduct to seek immediate assistance. Seeking assistance promptly may be important to ensure a student's physical safety or to obtain medical care or other support. It may also be necessary to preserve evidence, which can assist the University and/or law enforcement in responding effectively. Assistance is available 24 hours a day, seven days a week. The Resources list following the Procedures provides contact information for the campus and community resources available to help. University personnel will assist the student in notifying on-campus and/or local law enforcement if the student requests such assistance.

### **B. Confidentiality**

The University values the privacy of its students, employees, and other community members. It wants all community members to seek the assistance they need without fear that the information they provide will be shared more broadly than they would like. Federal and state laws, however, impose reporting obligations on University personnel that, in some circumstances, can require certain personnel to share information from a report of gender-based misconduct with government authorities, Office of Public Safety or others at the University. The Campus and Community Resources included near the end of this policy offers a chart summarizing the confidentiality obligations of different categories of University personnel with respect to reports of gender-based misconduct.

Even when University employees have an obligation to report to others, which means their office is described as "non-confidential" under this Policy, they will protect and respect students' privacy to the greatest extent possible and share information only on a need-to-know basis.

### **C. Advocacy and Counseling Services and Healthcare Providers (Confidential)**

The University can provide access to confidential advocacy, crisis counseling, and limited medical services. Advocates, counselors, and healthcare providers can provide students with immediate and

long-term help. Conversations with them are confidential, except as described in the Resources listing following the Procedures. They will listen, help access additional assistance, and explain options for obtaining additional support from the University and others. They can also arrange for medical care and accompany students, or arrange for someone to accompany students, to seek such care.

Students may use these resources whether or not they decide to make an official report or participate in University disciplinary proceedings or the criminal process. These advocates, counselors, and healthcare providers are familiar with the University's disciplinary process, can explain what to expect, and provide support while disciplinary or criminal processes are pending. If a confidential resource person operates in another University capacity outside the scope of their confidential status, for example, a licensed professional counselor who also teaches University classes, and a student discloses an incident of gender-based misconduct to that individual while operating, in this example, as an instructor, that instructor will not be operating as a confidential employee and is obligated to report the alleged incident to the Title IX Coordinator.

#### **D. Title IX Coordinator (Non-Confidential)**

The University has designated a Title IX Coordinator ("Coordinator"), assisted by a Deputy Title IX Coordinator(s), to support and provide assistance to students affected by gender-based misconduct. The Coordinator does not act as an advocate, but is a neutral resource available to all students. The Coordinator is responsible for referring students to available resources, offering appropriate protections, and supplying the Office of Student Development with relevant information for the disciplinary process. The Coordinator for the University is responsible for overseeing the University's response to Title IX reports and complaints, and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The Coordinator oversees the administration of this Policy and the Procedures in a neutral and equitable manner. The Coordinator can provide support and assistance immediately following an incident, throughout the investigation and disciplinary process, and throughout a student's time at the University. Contact information for the Coordinator is included below and in the Resources listing following the Procedures.

**Title IX Coordinator:**

Christi Williams

University Equal Opportunity Officer & Title IX coordinator

South Shepler 519

2800 West Gore Blvd.

Lawton, Ok. 73505

[eo-tix@cameron.edu](mailto:eo-tix@cameron.edu)

[580-581-6712](tel:580-581-6712)

**E. Law Enforcement (Non-Confidential)**

Students may report gender-based misconduct to the Cameron University Office of Public Safety (OPS), the Comanche County District Attorney's Office, the Stephens County District Attorney's Office, or the local law enforcement agency in whose jurisdiction the misconduct occurred. The University and criminal justice system work independently from one another. Law enforcement authorities do not determine whether a violation of this Policy has occurred. OPS personnel and the other resources included in the Resources listing are familiar with Oklahoma State law enforcement processes and can explain what happens when gender-based sexual misconduct is reported to law enforcement. Confidential support resources, the Coordinator, and OPS can explain how to report sexual assault and other forms of gender-based misconduct to law enforcement. Confidential support resources or OPS personnel will accompany any student requesting support to local law enforcement agencies or the District Attorney's Office. They cannot serve as a substitute for legal advice on these matters.

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## **V. REPORTING GENDER-BASED MISCONDUCT**

The University encourages students to report gender-based misconduct to the Coordinator as promptly as possible so that the University can investigate and respond effectively. Generally, once the Coordinator receives a report, it must be investigated. Students may meet with the Coordinator to learn more about the process before making a report.

### **A. Submitting a Report**

There are several avenues available for submitting a complaint or report:

- Leave a private voice message for the Coordinator;
- File a complaint or report on the form contained on the Equal Opportunity/Title IX website;
- Send a private email to the Coordinator;
- Mail a letter to the Coordinator;
- Visit the Coordinator in person (it is best to make an appointment first to ensure availability).

The University also recognizes that students may be most comfortable disclosing gender-based misconduct to a University employee they know well, such as a faculty member, coach, or resident advisor. Any University employee (other than the confidential resources identified in the Resources listing) who receives a report is required to inform the Coordinator about the incident.

If there is a gender-based misconduct complaint about the Coordinator or any staff member that is part of administering this Policy, or if the Coordinator or Deputy Coordinators have a complaint, that complaint should be filed with the President of the University. The President will appoint another trained individual to take the place of the Coordinator for purposes of the complaint.

Additionally, the Coordinator accepts anonymous and third-party reports of conduct alleged to violate this Policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Coordinator to investigate and

respond as appropriate. The Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Coordinator to conduct a meaningful and fair investigation.

If someone is in immediate danger or needs immediate medical attention, the first place to report is 911 if located off campus. You may also report it to the Office of Public Safety (OPS) (tele: 580-581-2237) or to the local law enforcement agency where the misconduct occurred. Some forms of discrimination and harassment may also be crimes. Calling local law enforcement can help obtain emergency and nonemergency medical care; get immediate law enforcement response for your protection; understand how to provide assistance in a situation that may escalate to more severe criminal behavior; assist with arranging a meeting with victim advocate services; find counseling and support; initiate a criminal investigation; and answer questions about the criminal process.

The University will endeavor to follow up on any report it receives about possible gender-based misconduct, whether from a student, other member of the community or an anonymous source.

## **B. Requesting Confidentiality in Connection with a Report to the University**

A complainant may report gender-based misconduct to the Coordinator and request that his or her identity not be disclosed to anyone else, including the person who allegedly committed the misconduct. Before a student reveals information, University employees will try to ensure that the student understands the employee's reporting obligations—and, if the student wishes to maintain confidentiality, direct the student to confidential resources. A student may choose to make a full report or request confidentiality as he or she determines.

A request for confidentiality may limit the University's ability to investigate and respond to the reported misconduct. The Coordinator will consider the request in light of the University's commitment to provide a safe and non-discriminatory environment for all students and will honor the request whenever possible. The Coordinator will promptly notify the complainant whether the request will be honored.

Whether or not the University is able to grant a request to keep the complainant's identity confidential, University personnel will reveal information about investigations and disciplinary proceedings related to gender-based misconduct only to those who need to know because it is necessary to carry out their duties and responsibilities; required by law; or as necessary to conduct an appropriate investigation. In all cases, the University will take appropriate steps designed to mitigate the effects of the alleged gender-based misconduct, prevent its recurrence, and make accommodations for the students involved. This may include academic, residential, and work accommodations, increased monitoring, supervision, or security at locations or in connection with activities where the alleged misconduct occurred, and training and educational materials for the campus community. If there is reason for concern about possible retaliation or harm, the University will take protective measures in consultation with the affected students.

### **C. Time for Reporting**

The University does not limit the time for submitting a report of gender-based misconduct. However, the University's ability to investigate and respond effectively may be reduced with the passage of time.

### **D. Unknown/Non-University Offenders**

The University will investigate reports of incidents affecting University students that are committed by individuals who are not members of the University community or whose identity is not known to the extent it is able, and take appropriate actions designed to protect affected students and others in the University community. In addition, the Coordinator will assist students in identifying appropriate campus and other resources.

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## **VI. IMMEDIATE ACTION AND INTERIM MEASURES AFTER A REPORT**

The Coordinator will work with all students affected by gender-based misconduct to ensure their safety and promote their well-being. Sometimes this assistance will take the form of immediate actions

or interim measures to support or protect a student in the aftermath of an incident and while an investigation or a disciplinary action is pending. Following a report of an incident, unless the report is confidential, the Coordinator will provide written notice to the complainant and respondent of the accommodations that may be available. Students may request accommodations even in cases where a complainant has requested that no investigation be undertaken or the complainant or respondent has declined to participate in University disciplinary proceedings or the criminal process. The Coordinator will evaluate any request for accommodations in light of the circumstances and information available at the time. The University will provide information about the accommodations only to those who need to know in order to make them effective.

Under appropriate circumstances, immediate actions or interim measures may include, but are not limited to:

- Moving a student's residence
- Adjusting a student's work schedule for University employment
- Changing a student's academic schedule
- Working with the Office of Academic Affairs to provide appropriate academic assistance
- Providing access to tutoring or other academic support
- Issuing a "no contact" order

Failure to comply with accommodations is a violation of University policy and may lead to additional disciplinary action.

Outside of the University, a complainant may also be entitled to obtain remedies under applicable law, such as a judicial restraining order. The University can assist in contacting law enforcement or legal service organizations to learn about these remedies.

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## VII. Anti-Retaliation/Anti-Intimidation Policy

The University strictly prohibits retaliation against and intimidation of any person reporting or connected with an incident of gender-based misconduct or involvement in the University's response. The University will take strong disciplinary action in response to any retaliation or intimidation. The University will pursue such discipline through the applicable student conduct policy or other disciplinary process and follow the applicable time frames within such policies or processes.

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## VIII. Rights of the Complainant and Respondent

To provide accessible, prompt, and fair methods of investigation and resolution of incidents of student gender-based misconduct, the University has developed a process for investigation and adjudication of misconduct reports. Throughout this process, both the complainant and respondent have the following rights:

- To respect, dignity, and sensitivity.
- To appropriate support from the University.
- To privacy to the extent possible consistent with applicable law and University policy.
- To information about the University's Gender-Based Misconduct Policy for Students.
- To the presence of an advisor throughout the process.
  - To participate or to decline to participate in the investigation or hearing panel process. A decision to refrain from participating in the process either wholly or in part will not prevent the process from proceeding with the information available.
- To a prompt and thorough investigation of the allegations.
- To adequate time to review documents following the investigation.
- To adequate time to prepare for a hearing.

- To an opportunity to challenge investigator(s) or hearing panel member(s) for a possible conflict of interest.
- To refrain from making self-incriminating statements.
- To appeal the decision made by the hearing panel and any sanctions.
- To notification, in writing, of the case resolution, including the outcome of any appeal.
- To report the incident to law enforcement at any time.
  - To understand that information collected in the process may be subpoenaed in criminal or civil proceedings.

## **A. Notice**

The Coordinator will give the complainant and respondent, respectively, an explanation of their rights and options, and any available accommodations, as soon as possible after an incident is reported.

The Coordinator will also ensure that both the complainant and respondent are updated throughout the investigative process, including with timely notice of meetings where either or both the complainant and the respondent may be present. More specifically, the complainant and respondent will simultaneously be given the following written notices:

- Conclusion of the Investigation
  - Notice of an opportunity to review with the Coordinator the investigative report and any other information that will be used in the disciplinary proceedings, consistent with federal law governing the privacy of student information.
- Administrative Resolution
  - Notice of whether the respondent accepts responsibility for violating the Policy.
- Sanctioning

- Notice of the sanctions imposed and the reasons for the sanctions. The complainant's notification will only include sanctions that apply directly to the complainant. This notice will include an explanation of the University's appeals process.
- Appeals Process
  - Notice of whether an appeal has been filed.
  - Notice of whether the responsibility determination or sanctions have been modified.
  - Notice when the responsibility determination and sanctions become final.
- Hearing Panel
  - Notice of the date and time of any hearing and list of hearing panel members.
  - Notice of the hearing panel's findings, along with the rationale for the outcome.

This notice will include an explanation of the University's appeals process.

## **B. Privacy**

The University will reveal information about its investigations and adjudication of gender-based misconduct only to those who need to know the information in order to carry out their duties and responsibilities. It will inform all individuals participating in an investigation, proceeding, or hearing that they are expected to maintain the privacy of the process. This does not prohibit either a complainant or respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or similar resources.

## **C. Advisors**

The complainant and respondent, respectively, may be accompanied to any meeting or hearing related to an incident of misconduct by the advisor of their choice. Advisors may support the student and provide advice about the investigation and disciplinary process. During meetings and hearings, the advisor may talk quietly with the student or pass notes in a non-disruptive manner. The advisor may

not intervene in a meeting or hearing or address the investigator or hearing panel, including by questioning witnesses or making objections. If a complainant or respondent desires to have an attorney serve as an advisor, the complainant or respondent may do so at their own cost.

#### **D. Declining to Participate**

A complainant and/or respondent may decline to participate in the investigative or disciplinary process. The University may continue the process without the complainant's and/or respondent's participation. In most cases, a refusal to participate in the investigative process will preclude a complainant or respondent from participating before the hearing panel.

#### **E. Conflicts of Interest**

The University requires any individual participating in the investigation, hearing process, sanctioning or appeal determinations to disclose to the Coordinator any potential or actual conflict of interest. If a complainant or respondent believes that any individual involved in the process has a conflict of interest, he or she may make a request to the Coordinator that the individual not participate. A complainant or respondent who believes that a member of a hearing panel has a conflict of interest must submit this written request to the Coordinator within three days after notification of the panel's membership. Any request should include a description of the conflict. If the Coordinator determines that a conflict of interest exists, the University will take steps to address the conflict in order to ensure an impartial process.

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### **IX. INVESTIGATION**

The Coordinator will inform the complainant before starting an investigation. The complainant may request that an investigation not be undertaken. The Coordinator will consider such a request in light of the University's commitment to provide a safe and non-discriminatory environment for all students. If the Coordinator determines not to investigate, it will notify the complainant in writing, including that the



determination was made at the complainant's request. At the complainant's request, the Coordinator will also notify the respondent in writing, including that the complainant asked the University not to investigate.

If an investigation proceeds, the University will notify the respondent in writing that a report has been filed. The notice will describe the allegations in the report. The complainant and respondent will be given the opportunity to meet separately with investigators to review the Policy and these Procedures.

The University's process for responding to, investigating, and adjudicating gender-based misconduct reports will continue during any law enforcement proceeding. The Coordinator may need to temporarily delay an investigation while the police are gathering evidence but it will resume the investigation after it learns that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.

An investigator(s) (the Coordinator, the Deputy Coordinator, other specifically designated employee, or combination thereof) will interview the complainant, respondent, and any witnesses. The investigator will also gather pertinent documentary materials (if any) and other information. The investigator will follow the protocols set forth below:

- **Preserving Evidence.** The investigator will direct the complainant, respondent, witnesses, and other interested individuals to preserve any relevant evidence.
- **Character Witnesses.** The investigator will not interview witnesses whose sole purpose is to provide character information.
- **Romantic or Sexual History in Sexual Assault Cases.** The investigator will not consider information concerning the romantic or sexual history of either the complainant or the respondent, except from either the complainant or respondent regarding their shared sexual history. If either offers such information, the other will have the right to respond.
- **Prior Conduct Violations.** The investigator will not consider the respondent's prior conduct violations, unless the Coordinator or the respondent's school provides information because:

- The respondent was previously found to be responsible, and
- The previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.

The investigator(s) will prepare a report detailing the relevant content from the interviews and the documentation gathered and submit it to the Coordinator if the Coordinator was not an investigator. The report will include the investigator's assessment of individual credibility and recommended findings of responsibility.

The respondent and complainant will each have the opportunity to review a copy of the investigative report and any other information that will be used during the disciplinary proceedings. The names and other identifying information of other students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purpose of Title IX to eliminate sex-based discrimination. The Coordinator will supervise this review and ensure that reasonable time is afforded for review prior to a hearing, if one is necessary.

Investigators will generally initiate the investigation within five working days of receiving the complaint. The University will endeavor to complete investigation within 30 working days. Availability of witnesses, timing of complaint, criminal investigations, and other factors may require that the investigation take longer than 30 days. However, barring special circumstance, an investigation shall not last longer than 60 days.

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## **X. SATISFACTORY RESOLUTION**

If a complainant chooses to file a complaint, the complainant may have the option to proceed with informal resolution. In cases involving allegations of sexual assault, informal resolution is not

appropriate, even if both the complainant and respondent indicate a preference for informal resolution.

If the complainant, the respondent, and the Coordinator agree that an informal resolution should be pursued, the Coordinator, or their designee shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Informal resolution can take place during the investigation or after its conclusion. If an investigation is not complete, the complainant or respondent always has the option to request that the investigation be completed. The Coordinator also has the discretion to complete the investigation. At any time during informal resolution, the complainant, the respondent, or the Coordinator wishes to cease the informal process and to proceed through formal grievance procedures, the formal process outlined below will be invoked.

Informal resolution must adequately address the concerns of the complainant, the rights of the respondent, and the overall intent of the University to stop, remedy, and prevent gender-based misconduct. Informal resolution might include, but is not limited to, providing training to the respondent or a group of students and/or employees with which the respondent affiliates; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination, or hostile environment harassment; or having a confidential conversation with a supervisor or instructor.

If, based on the information known about the incident, the Coordinator believes informal resolution is possible, the Coordinator will speak with the complainant. If the complainant agrees, the Coordinator will then speak with the respondent. If both complainant and respondent are satisfied with a proposed resolution and the Coordinator believes the resolution satisfies the University's obligation to provide a safe and non-discriminatory environment for all students, the resolution will be implemented, the disciplinary process will be concluded and the matter will be closed. If these efforts are unsuccessful, the disciplinary process will continue.

The complainant or respondent may also request mediation from the Coordinator at any stage of the process. Mediation differs from the informal resolution discussed above in that a third-party will listen

to complainant and respondent and determine the appropriate resolution. The complainant and respondent will be asked not to contact each other to discuss mediation. Mediation will be used only with the consent of both the complainant and respondent, and either has the right to terminate the mediation process and resume the regular disciplinary process at any time. If the mediation results in a resolution, the disciplinary process will be concluded and the matter will be closed. If a resolution cannot be reached, the disciplinary process will proceed. The University will not use mediation for cases involving allegations of sexual assault

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## **XI. INVESTIGATION FINDINGS AND FINAL REPORT**

The investigator(s) shall prepare a final report rendering a finding based on the evidence as a whole, the totality of the circumstances, and the context in which the alleged incident(s) occurred, utilizing a preponderance of the evidence standard. The "preponderance of the evidence" standard means that it is probably more true than not true that respondent engaged in the conduct at issue., i.e., the facts complained of are more likely true than not. The Coordinator is authorized to take the following actions:

- Satisfactory Resolution - The matter is resolved to the satisfaction of all parties. Provided, however, there will be no direct mediation between the parties. If a resolution satisfactory to the parties is reached, the Coordinator may prepare a written statement or other applicable document indicating the resolution (e.g., issuing a no contact order). At that time, the investigation and the record shall be closed. See section XI.
- Dismissal - No policy violation occurred and the complaint is dismissed. In such cases, this shall become a Final Report. Written notice of dismissal will be provided to each party involved. Within five (5) University business days of the date of the notice of dismissal, the complainant may, in writing, ask the Coordinator or their designee to reconsider the finding. The request for reconsideration of the finding must indicate how and why the finding was

inaccurate. If after reconsideration, the Coordinator determines that additional evidence not available at the time of the report would materially alter the findings, he/she may conduct an additional investigation and report or may take appropriate action. If no appeal is filed within the five (5) University business-day period or the Coordinator does not act on the appeal within five (5) University business days, the case is considered closed and the findings are final. All appropriate administrative officials and parties shall be notified in writing that the matter is closed. The matter may be referred to the Office of Student Development, Human Resources, or the V.P. of Academic Affairs to determine whether any other University policies have been violated.

- **Determination of Impropriety–**

- **Against a student** - A finding of impropriety or policy violation against a student will be referred to the Office of Student Development and be handled in accordance with this policy.
- **Against a member of the faculty** – A finding of impropriety or violation against a member of the faculty will be referred to the V.P. of Academic Affairs and be handled in accordance with the Faculty Handbook. The Coordinator in consultation with the V.P. of Academic Affairs, may determine that the evidence is sufficiently clear and serious, warranting the immediate commencement of formal proceedings as provided in the Abrogation of Tenure, Dismissal before Expiration of a Term Appointment, and Severe Sanctions sections of the Faculty Handbook. If the President concurs with the finding of the Coordinator and V.P. of Academic Affairs, the case may be removed from the grievance proceedings contained herein and further action in the case shall be governed by the Abrogation of Tenure, Dismissal before Expiration of a Term Appointment, and Severe Sanctions section in the Faculty Handbook.
- **Against an employee** – A finding of impropriety or violation against an employee will be referred to Human Resources.

For matters where it is determined that impropriety or other policy violation occurred, upon completion of the investigation report, the Coordinator shall make the appropriate referral within five (5) days.

Where there is a determination of impropriety against a student, the Office of Student Development shall determine appropriate sanctions or discipline in accordance with this policy and incorporate them into the report. This shall become the Final Report. The Office of Student Development shall have ten (10) days after receipt of investigation report to notify the complainant and respondent of the outcome of the investigation. The complainant or respondent may accept the Final Report, including a dismissal, determination of impropriety, proposed sanctions (if included), steps to take to prevent recurrence of any such violation, and any remedies for the complainant. In the event the complainant or respondent do not accept the report, either or both may appeal the Final Report, including a dismissal, determination of impropriety, proposed sanctions, by notifying the Dean of Students within five (5) days after notice of the Final Report.

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### **XIII. APPEAL OF FINAL REPORT**

If the complainant or respondent appeal the Final Report, the Dean of Students shall convene a panel to uphold or reverse the finding and assign sanctions if deemed appropriate. Additionally, the panel will determine steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the complainant.

Appointed by the Dean of Students, the hearing panel will consist of three members drawn from the pool of full-time University faculty or employees. All panelists will receive training at least once a year. Training will include topics about how the adjudicatory process works, determining credibility of witnesses, weighing evidence, sanctions, and other topics ensuring that the due process rights of all individuals involved are protected. The complainant and respondent will be informed of the panel's membership before the hearing process begins. The panel will hold a hearing within ten (10) working

days of receiving the investigative report following review by the complainant and respondent, unless mutually agreed upon otherwise.

In any hearing, the Director of the Office of Student Development, or their designee, shall represent the University, and, due to the nature of the proceedings, indirectly represent the reporting party.

However, Student Development's role is to ensure the best interests of the University are represented.

## **A. Hearing Process**

### **i. Pre-Hearing**

The hearing panel shall be provided with a copy of the Final Report and any pertinent information or evidence used or relied upon during the investigation. Both the complainant and respondent will have the opportunity to submit written responses to the Final Report and other relevant information to the hearing panel. Both the complainant and respondent will have the opportunity to review any written submissions by the other. The hearing panel may set reasonable parameters for these written submissions. The hearing panel will review the investigation report and written submissions. Timing for the written submissions will be determined by the hearing panel, but in all cases written submission must be submitted to the hearing panel five (5) days before the hearing date.

At any time within ten (10) days of the hearing, the panel may determine whether the evidence presented is complete or additional investigation is required. In such cases, the panel shall notify the Coordinator to address the panel's determination and/or conduct additional investigations.

### **ii. Hearing**

The hearing is a closed proceeding, meaning that no one other than the panel members, the complainant and respondent, their respective advisors, witnesses (when called), and necessary University personnel may be present in the hearing room or rooms during the proceeding. The Coordinator will work with other University personnel so that any student whose presence is required

may participate in the hearing. Complainant has the right to participate as a party, but failing to elect so will be treated as a regular witness.

In general, hearings will proceed as follows:

- Investigator statement and report
- Complainant statement
- Respondent statement
- Questions to the complainant by the hearing panel
- Questions to the respondent by the hearing panel
- Witness testimony and questioning by the hearing panel (if called by panel)
- Questions to the investigator by the hearing panel
- Closing statement by complainant
- Closing statement by respondent

The panel may set reasonable time limits for any part of the hearing. Both the complainant and respondent will have the opportunity to present witnesses and other information consistent with these Procedures. The panel may determine the relevance of, place restrictions on, or exclude any witnesses or information. The panel may also call other student and employee witnesses to testify and obtain other evidence held by the University or any student or University employee. If the complainant and/or respondent are not able to be present for the hearing panel, arrangements will be made for participation via alternate means.

Additional hearing rules include:

- Testimony via Video Conference. If requested by either the complainant or respondent, only the person testifying (and that person's advisor, if applicable) is in the hearing room



during his or her testimony. Each of the complainant and respondent will be able to view testimony from a separate, private room via video conference.

- **Questioning.** Only the panel may ask questions of the complainant and respondent and any witnesses. Before the hearing, both the complainant and respondent will have the opportunity to suggest questions of the other and of witnesses by submitting suggested questions to the panel in writing. The panel may revise or not ask any or all submitted questions.
- **Information Regarding Romantic or Sexual History.** The panel will not consider the romantic or sexual history of either the complainant or respondent in cases involving allegations of gender-based misconduct, except for testimony offered by one or the other about the complainant and respondent's shared sexual history that the panel deems relevant. If such information is offered by the complainant or respondent, the other has the right to respond. The existence of a prior consensual dating or sexual relationship between the complainant and respondent by itself does not support an inference of consent to alleged gender-based misconduct.
- **Prior Conduct Violations.** The hearing panel will not consider the respondent's prior conduct violations, unless it relied on the information because the respondent was found to be responsible for a previous incident substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.
- **Recording.** The University will keep a recording (audio, video, or stenographic) of the hearing.
- **Cell Phones and Recording Devices.** Cell phones and recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

### **iii. Standard of Proof**

The panel will use “preponderance of the evidence” as the standard of proof to determine whether a violation of the Policy occurred. “Preponderance of the evidence” means that a panel must be convinced based on the information it considers that it is probably more true than not true that the respondent engaged in the conduct at issue. The panel shall also determine sanctions, steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the complainant.

The panel shall render its decision by a majority vote. Such decision shall normally be rendered within two working days after the conclusion of a hearing. The panel’s decision will include an explanation of the basis for the decision.

#### **iv. Final Decision**

Within two working days of the conclusion of the hearing the panel will submit a decision in writing to the parties, the Coordinator, the Dean of Students, and the Vice President for Enrollment Management and Student Success (“VPEMSS”). The final decision will contain the following:

- Specific factual findings;
- Specific references to the portion(s) of the policy(ies) alleged to have been violated; and
- Sanctions, steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the complainant.

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## **XII. SANCTIONS, REMEDIES FOR COMPLAINTANT, AND ADDITIONAL MEASURES**

Any sanctions that are proposed under this policy will be:

- Fair and appropriate given the facts of the particular case;
- Consistent with the University’s handling of similar cases;
- Adequate to protect the safety of the campus community; and

- Reflective of the seriousness of gender-based misconduct.

In determining sanctions the following relevant factors, if applicable, should be considered:

- the specific gender-based misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.);
- the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.);
- the respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.);
- the impact of the offense on the complainant;
- the respondent's prior disciplinary history;
- the safety of the University community; and
- the respondent's conduct during the disciplinary process.

The University may impose any one or more of the following sanctions on a student determined to have engaged in gender-based misconduct, but not limited to:

- Reprimand/warning (not available in cases of sexual assault)
- Changing the respondent's academic schedule
- Disciplinary probation
- Revocation of honors or awards
  - Restricting access to University facilities or activities (including student activities and campus organizations)
- Community service

- Issuing a “no contact” order to the respondent or requiring that such an order remain in place
- Moving the respondent’s residence
- Dismissal or restriction from University employment
- Removal from student housing
- Suspension (limited time or indefinite)
- Expulsion[1]

In addition to any other sanction (except where the sanction is expulsion), the University will require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the gender-based misconduct violation at issue. The University may also recommend counseling or other support services for the student.

Regardless of the outcome of any investigation or hearing, a complainant may request ongoing or additional accommodations or remedies. Potential ongoing accommodations include:

- Providing an escort for the complainant
- Moving the complainant’s residence
- Changing the complainant’s academic schedule
- Adjusting the complainant’s work schedule
- Allowing the complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or retake a class

In all cases or outcomes, the University may also determine that additional measures are appropriate to respond to the effects of the incident on the University community. Additional responses for the benefit of the University community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Additional training and educational materials for students and employees
- Revision of the University's policies relating to gender-based misconduct
- Climate surveys regarding gender-based misconduct

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### **XIII. FINAL APPEAL**

Either the respondent or the complainant or both may appeal the hearing panel's final decision. Final Appeals are decided by the VPEMSS. Final Appeals are limited to the following:

- A procedural errors during the hearing or investigation;
- There was exhibited unfair bias which influenced the result of the investigation or hearing;
- New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; and
- Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The appealing student must submit the appeal in writing to the VPEMSS within five (5) working days after receiving the final decision. If either the complainant or respondent submits an appeal, the VPEMSS will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing student may submit a written response within five (5) days after notice of an appeal.

If the VPEMSS concludes that a change in the final decision is warranted, the VPEMSS may enter a revised determination, reconvene the panel to reconsider the determination, or return the matter for additional investigation. The VPEMSS may also change the sanctions. If both the complainant and

respondent appeal, the appeals will be considered concurrently. The VPEMSS will notify both parties in writing of the appeals decision. Appeals decisions will be rendered within ten (10) working days after the expiration of all appeal times in this section. All appeal decisions are final.

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#### **XIV. Timeframes**

The University may extend any time frame identified herein for good cause, with a written explanation to the complainant and respondent. Any time frame identified is subject to extension if the details of a case warrant, students and witnesses are unavailable, or the time of the academic year warrants (for example, during breaks, study periods, or final exams).

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#### **XV. DISCLOSURE AND REPORTING OF CRIME AND DISCIPLINARY STATISTICS**

Disciplinary proceedings conducted by the University are subject to the Family Educational Rights and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the University without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct, or required to be produced through other compulsory legal process.

A federal law called the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") requires the University to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute gender-based misconduct under this Policy. As described in the chart in the Resources listing

following the Procedures, many employees who receive reports of gender-based misconduct are required by the Clery Act to notify OPS about such incidents for statistical reporting purposes. These notifications may include the classification and location of the reported crime but do not identify the students involved. The Clery Act also requires the University to issue a “timely warning” when it receives a report of certain crimes that pose a serious or continuing threat.

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## **XVI. RELATED ALCOHOL AND DRUG VIOLATIONS**

Sometimes students may be reluctant to report instances of gender-based misconduct because they fear being charged with University alcohol or drug policy violations. The University encourages students to report all instances of gender-based misconduct and will take into consideration the importance of reporting gender-based misconduct in addressing violations of the University’s alcohol and drug policies. This means that, whenever possible, the University will respond educationally rather than punitively to student alcohol or drug policy violations associated with reported gender-based misconduct.

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## **XVII. PUBLIC AWARENESS EVENTS**

The University supports public awareness events, including candlelight vigils, protests, survivor speak outs, and other forums. These activities help inform the need for campus-wide education and prevention efforts. The disclosure of incidents of gender-based misconduct at such events is not considered a report to the University for purposes of triggering an investigation of a particular incident.

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## **XVIII. RISK REDUCTION TIPS**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to blame victims, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you reduce your risk of experiencing a non-consensual sexual act.

- Make your limits known as early as possible.
  - Be aware of your alcohol intake. 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 or colleagues and ask that they take care of you.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DON'T MAKE ASSUMPTIONS** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go; or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you **DO NOT** have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. You must respect the timeline for sexual behaviors with which they are comfortable.



- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to one form of sexual behavior does not automatically imply consent to other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

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## **XIX. BYSTANDER INTERVENTION**

If you witness a policy violation, or behaviors that may lead to a policy violation, there are a variety of things you can do as a bystander:

- Divert the intended victim (e.g. "help me out of here; I don't feel well")
- Distract the perpetrator (e.g. "looks like your car is being towed")
- Confront the perpetrator (e.g. "don't speak to him/her in that manner; you are going to get yourself into trouble")
- Call for law enforcement assistance
  - Emergencies-911
  - Non-emergencies- [580-581-2237](tel:580-581-2237)

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## **XX. CAMPUS AND COMMUNITY RESOURCES**

<b>Cameron University Resources</b>	<b>Contact Information</b>	<b>Confidentiality*</b>
Title IX Coordinator	<u>580-581-6712</u>	Non-Confidential
Campus Police (Lawton Campus)	<u>580-581-2911</u>	Non-Confidential
Police (Duncan Campus)	<u>580-252-0250</u>	Non-Confidential
Student Wellness Center	<u>580-581-6725</u>	Confidential
Counseling Services (Duncan Campus)	<u>580-581-6725</u>	Confidential
Taliaferro Community Mental Health Center	<u>580-248-5780</u>	Confidential

<b>Community Resources</b>	<b>Community Resources</b>	<b>Confidentiality*</b>
Lawton Police Department	<u>580-581-3270</u>	Non-Confidential
Duncan Police Department	<u>580-252-0250</u>	Non-Confidential
Comanche County Sheriff's Department	<u>580-353-4280</u>	Non-Confidential
Stephens County Sheriff's Department	<u>580-255-3131</u>	Non-Confidential
Comanche County District Attorney	<u>580-585-4444</u>	Non-Confidential
Stephens County District Attorney	<u>580-255-8726</u>	Non-Confidential
DVIS Call Rape Helpline	<u>800-522-7233</u>	Confidential
Comanche County Hospital	<u>580-355-8620</u>	Confidential
New Directions Women's Shelter – Lawton	<u>580-357-2500</u>	Confidential
Women's Haven – Duncan	<u>580-252-5324</u>	Confidential

<b>Community Resources</b>	<b>Community Resources</b>	<b>Confidentiality*</b>
Southwest Medical Center	<u>580-531-4700</u>	Confidential
Youth Services for Stephens County, Inc. – Duncan	<u>580-255-8800</u>	Confidential
Oklahoma Coalition Against Domestic Violence and Rape	<u>800-522-7233</u>	Confidential
Lawton Community Health Center	<u>580-606-6929</u>	Confidential

\* See section IV paragraph B for more detailed information regarding confidentiality regarding counselors, law enforcement agencies, medical professionals, and University personnel.

<b>National Resources</b>	
<u><a href="http://www.rainn.org/">http://www.rainn.org/</a></u>	(Rape, Abuse, and Incest National Network)

Students with complaints or questions about the University’s gender- based misconduct policy may choose to contact the U.S. Department of Education Office for Civil Rights (OCR), Kansas City Office:

One Petticoat Lane, 1010 Walnut Street, 3rd floor, Suite 320, Kansas City, MO 64106

Telephone: 816-268-0550 FAX: 816-268-0599 TDD: 800-877-8339 Email:

OCR.KansasCity@ed.gov

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## **XXI. DEFINITIONS AND CONCEPTS**

**Coercion.** Unreasonable pressure for sexual activity. When someone makes it clear that he or she does not want to engage in sexual activity or does not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of coercion

can involve the use of pressure, manipulation, substances, and /or force. Ignoring objections of another person is a form of coercion.

**Consent.** Consent requires unambiguous communication and mutual agreement concerning the act in which the participants are engaging.

- A sexual interaction is considered consensual when individuals willingly and knowingly engage in the interaction.
- Someone who is incapacitated (by alcohol or drug use, unconsciousness, disability, or other forms of helplessness) cannot consent.
- Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or previous consent for sexual activity is not consent to sexual activity on a different occasion.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Silence or the absence of resistance is not the same as consent.
- Consent can be withdrawn at any time.
- Previous consent does not mean ongoing consent. (For example, consent to certain acts at one point in an evening does not mean consent to the same acts later in the same evening.)
- How drugs and alcohol affect consent: Individuals should be aware of, and carefully consider, the potential consequences of the use of alcohol or drugs. Alcohol and other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. If there is a question about whether someone consented to sexual activity after consuming drugs or alcohol, the University will examine the issue from the

perspective of a reasonable person. Specifically, the University will consider whether the respondent reasonably should have known about the impact of alcohol and other drugs on the complainant's ability to give consent.

- The use of alcohol or drugs does not justify or excuse behavior that constitutes gender-based misconduct.
- The use of alcohol or other drugs never makes someone at fault for experiencing gender-based misconduct.

**Complainant.** The person making the allegation(s) of gender-based misconduct.

**Dating Violence.** The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards a person who is or has been in a social relationship of a romantic or sexually intimate nature with the victim. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Dating violence can be a single act or a pattern of behavior in relationships.

**Domestic Violence.** The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards (a) a current or former spouse or intimate partner; (b) a person with whom one shares a child; or (c) anyone who is protected from the respondent's acts under the domestic or family violence laws of Oklahoma. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Domestic violence can be a single act or a pattern of behavior in relationships.

**Force.** The use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

**Gender-based Harassment.** Acts of aggression, intimidation, stalking, or hostility based on gender or gender stereotyping constitutes gender-based harassment. Gender-based harassment can occur if students are harassed either for exhibiting what is perceived as a stereotypical characteristic of their sex, or for failing to conform to stereotypical notions of masculinity or femininity. To constitute harassment, the conduct must unreasonably interfere with an individual's education or educational activities or create an intimidating, hostile, demeaning, or offensive academic or living environment.

**Hostile Environment.** A hostile environment may arise when unwelcome conduct of a sexual or gender-based nature affects a student's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational and/or living environment. A single, isolated incident of sexual or gender-based harassment may, based on the facts and circumstances, create a hostile environment.

**Incapacitation.** A state where a person cannot make a rational, reasonable decision because the person lacks the ability to understand his or her decision. A person can become incapacitated as a result of disability, involuntary physical constraint, sleep, or consumption of alcohol or other drugs.

**Intimidation.** Any threat of violence or other threatening behavior directed toward another person or group that reasonably leads the target(s) to fear for their physical well-being or to engage in sexual conduct for self-protection.

**Sexual Assault—Non-Consensual Sexual Contact.** Any intentional sexual touching, however slight, with any object without a person's consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin, or touching another with any of these body parts; making another person touch any of these body parts; and any intentional bodily contact in a sexual manner.

**Sexual Assault—Non-Consensual Sexual Intercourse.** Any form of sexual intercourse (vaginal, anal, or oral) with any object without consent. Intercourse means: vaginal or anal penetration (however slight) by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

**Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education, or educational or campus life activities; or (ii) submission to or rejection of such conduct by an individual is used as the basis for academic or student life decisions affecting that individual; or (iii) such conduct has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning, or offensive campus or living environment.

**Sexual Exploitation.** Non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. Examples of sexual exploitation include: observing another individual's nudity or sexual activity or allowing another to observe nudity or sexual activity without the knowledge and consent of all participants; non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all participants; exposing one's genitals in non-consensual circumstances; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Stalking.** A course of conduct directed at a specific person that would cause a reasonable person to feel fear or suffer substantial emotional distress. Stalking involves repeated and continued harassment against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear or apprehension. Stalking behaviors may include: pursuing or following; unwanted communication or contact -- including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.

**Respondent.** The person alleged to have committed gender-based misconduct.

**Retaliation.** Any adverse action, or attempted adverse action, against an individual (or group of individuals) because of their participation in any manner in an investigation, proceeding, or hearing

under this Policy, including individuals who file a third-person report. Retaliation can take many forms, including sustained abuse or violence, threats, and intimidation. Any individual or group of individuals, not just a respondent or complainant, can engage in retaliation.

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## **XXII. STATE LAW DEFINITIONS**

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.

Definition of Rape under Oklahoma Criminal Law. 21 O.S. §1111:

A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and 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;
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. (Effective November 1, 2015).

B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.

Definition of Consent under Oklahoma Criminal Law. 21 O.S. §1114(A) provides lack of consent in rape cases where:

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 accompanied by apparent power of execution regardless of the age of the person committing the crime; or
6. rape by instrumentation resulting in bodily harm is rape by instrumentation in the first degree regardless of the age of the person committing the crime; or
7. rape by instrumentation committed upon a person under fourteen (14) years of age

Definition of Domestic/Dating Violence under Oklahoma Criminal Law.

21 O.S. §644, defines domestic and dating violence as any person who committing "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."

## Definition of Stalking under Oklahoma Criminal Law. 21 O.S. §1173:

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.

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[1] Sanctions of expulsion and suspension under this policy shall not become effective until the Final Report is accepted or the applicable appeal time has expired. This shall not apply to a suspension or other action removing the student from the University community when the student poses (1) a danger to the safety of the student, other persons, or University property or (2) is an ongoing threat of disrupting the academic process.



ACCREDITATION   AGGIE RESET   AGGIES REPORT IT!   EQUAL OPPORTUNITY STATEMENT   CAREERS  
CONSUMER INFORMATION   CONTACT US   FEEDBACK   FREEDOM OF EXPRESSION   GOVERNING BOARD  
HIPAA FORMS   TERMS OF USE