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# Civil Rights & Title IX Policy for Faculty, Students and Staff

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**INTRODUCTION**

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Southeastern Oklahoma State University affirms its commitment to an educational and working environment free from discrimination and harassment on the basis of race, color, national origin, religion, sex, sexual orientation, gender, age, disability, veteran status, and other protected characteristics. Discrimination of any kind, including harassment and retaliation, will not be tolerated. This policy specifically covers all civil rights and Title IX matters for all faculty, students, staff, student and employee applicants, contractors and visitors when the University becomes aware of discrimination, harassment or retaliation through a complaint or by other means. Southeastern is committed to promptly ending any instances of discrimination, harassment, or retaliation and taking appropriate measures to effectively prevent the repetition of such conduct. The University will impose appropriate sanctions to reasonably ensure that such actions are not repeated, and steps will promptly be taken to remedy the effects of the misconduct.

The University is committed to preventative programming and outreach to the campus community in order to improve campus attitudes and understanding about discrimination, harassment, sexual misconduct, effective consent, bystander intervention, and other important behavioral wellness topics.

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**POLICY STATEMENT**

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Southeastern Oklahoma State University, in compliance with applicable federal and state law and regulations, does not discriminate and prohibits discrimination on the basis of race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity, or status as a veteran in any of its policies, practices, procedures, or programs. This includes, but is not limited to: admissions, employment, financial aid, and educational services.

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**PRIMARY AUTHORITY**

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The application of other University policies not related to discriminatory misconduct may trigger this policy if any report or complaint that arises under those processes contains elements of discriminatory misconduct, and will therefore be addressed in accordance with this policy prior to the resolution of other claims.

**Examples:** A student grade appeal typically routed through the Academic Appeals Committee, but which contains allegations of racial discrimination must first be evaluated in accordance with the policies and procedures contained herein, before continuing through that committee.

An employee appeal from suspension, demotion, or discharge which contains allegations of gender based discrimination must first be evaluated in accordance with the policies and procedures contained herein, before continuing through that committee.

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**PRIOR POLICIES ARE REPLACED BY THIS POLICY**

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**Note:** This policy has been developed to simplify and consolidate all equity-based processes and procedures under one umbrella policy. This policy replaces the following University policies, or specific portions listed, that were in place prior to adoption:

- 1) Academic Policies and Procedures Manual, § 1.8 Nondiscrimination, Equal Opportunity, and Affirmative Action Policy.
- 2) Academic Policies and Procedures Manual, § 4.4.6 Faculty Grievance Policy (insofar as discrimination complaints are concerned).
- 3) Academic Policies and Procedures Manual, § 7.4 Sexual Harassment, Sexual Relationship, and Sexual Assault Policy.
- 4) Academic Policies and Procedures Manual, § 7.5 Racial and Ethnic Policy.
- 5) Academic Policies and Procedures Manual, § 7.14 Americans with Disabilities Act Policy.
- 6) Administrative, Professional, and Support Staff Employee Handbook, § vi Nondiscrimination, Equal Opportunity, and Affirmative Action Policy.
- 7) Administrative, Professional, and Support Staff Employee Handbook, § 6 Americans with Disabilities Act Policy.
- 8) Administrative, Professional, and Support Staff Employee Handbook, § 8.9 Sexual Harassment, Sexual Relationship, and Sexual Assault Policy.
- 9) Administrative, Professional, and Support Staff Employee Handbook, § 8.13 Racial and Ethnic Harassment Policy.
- 10) Administrative, Professional, and Support Staff Employee Handbook, § 13 Employee Complaint Policy.
- 11) Student Handbook, § D Gender Based and Sexual Misconduct Policy and related definitions of gender-based discrimination, harassment, and retaliation in § B of the Student Handbook.
- 12) Sexual Harassment and Violence, Discrimination, Retaliation and Domestic Violence Policy.
- 13) The Grievance Procedure for Faculty, Staff, and Students with Disabilities.
- 14) Policy on Services for Students with Disabilities.
- 15) Policy for Special Housing Requests for Students with Disabilities.
- 16) Service and Assistance Animal Policy
- 17) Policy for Addressing Requests for Academic Modifications Under the Americans with Disabilities Act
- 18) Criteria for Accepting Documentation of Disabilities

The Civil Rights & Title IX Policy is the official University policy outlining discrimination grievance procedures. Residual copies of the policies listed above are outdated may not be relied upon in any manner upon adoption of this policy.

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**POLICY APPROVAL**

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Southeastern Oklahoma State University – Director of Compliance and Safety:	March 1, 2017
Regional University System of Oklahoma General Counsel’s Office:	April 17, 2017
President of Southeastern Oklahoma State University:	May 10, 2017

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**PRIMARY CONTACT FOR INQUIRES ABOUT THIS POLICY**

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Michael Davis, J.D.  
Director of Compliance and Safety  
Title IX Coordinator  
Administration Building, Room 311  
425 West University Blvd. Durant, OK  
Phone: 580-745-3090  
Email: [mdavis@se.edu](mailto:mdavis@se.edu)

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# PART ONE OVERVIEW

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## 1.1 KEY DEFINITIONS BY ALPHABETICAL ORDER

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- 1.1A. Title IX Coordinator** The Title IX Coordinator is responsible for the oversight of the investigation and resolution of all reports of gender-based discrimination, sexual harassment, sexual violence, stalking, and domestic and dating violence involving students and employees. **At Southeastern the Title IX Coordinator is also the Affirmative Action and Equal Employment Opportunity Officer.** The Coordinator is trained in University policies and procedures as well as applicable laws, and is available to advise any individual, including a complainant, respondent, or a third party, about the courses of action available at the University, both informally and formally. The Coordinator is available to provide assistance to any University employee regarding how to respond appropriately to a report of discriminatory or sexual misconduct. The coordinator is additionally responsible for monitoring compliance with all procedural requirements, record-keeping, and timeframes outlined in this policy, as well as overseeing training, prevention, and education efforts. The Coordinator operates independently of other University administrative structures.
- 1.1B. Reasonable Cause** Some credible information to support each element of the offense, even if that information is merely a credible witness or victim’s statement. A complaint wholly unsupported by any credible information will not be forwarded for a hearing.
- 1.1C. Sexual Conduct** *Sexual conduct* includes, but is not limited to, any sex act, erotic touching, romantic flirtation, conversation of a carnal nature, advance or proposition for sensual activity, erotically explicit joke, remark of a carnal nature describing a person’s body or clothing, display of an erotic object or picture, and physical contact reasonably believed to be of a sensual or flirtatious manner. *Sexual conduct* does not include reasonable use or delivery of bona fide lecture and/or instructional acts, statements, or materials. (See RUSO POLICY MANUAL § 5.8)
- 1.1D. Consent** Consent means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Consent can be revoked at any time. Effective Consent is freely and actively given in a mutually understandable manner through words or actions that indicate a willingness to participate in a mutually agreed upon sexual activity. Consent is voluntary.

- a. Consent cannot be given by an individual who is asleep, or mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason.
- b. Consent cannot be given by a person under duress, threat, coercion or force.
- c. Consent cannot be inferred under circumstances in which consent is not clear, including but not limited to the absence of an individual saying 'no' or 'stop, and cannot be inferred from the existence of a prior or current relationship or sexual activity. Initiators of sexual activity are responsible for obtaining effective consent.
- d. Silence or passivity is not effective consent.
- e. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- f. Previous relationships or prior consent cannot imply consent to future sexual acts.
- g. Consent may be initially given but withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop.
- h. Prior sexual activity between individuals does not imply consent for future acts of sexual activity
- i. Lack of consent includes instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity (such as being under the influence of alcohol or other drugs) and instances where the victim is threatened with force, threat, or other duress.
  - i. Force negates consent. Sexual activity that is forced is by definition non-consensual, but lack of force alone does not establish consent .
  - ii. There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent.
- j. Use of alcohol or other drugs on the part of the respondent will never function as a defense for any behavior that violates this policy. For all conduct sections where consent is required consent must be present.
- k.

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## 1.2 PRESERVATION OF ACADEMIC FREEDOM AND INTELLECTUAL INQUIRY

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The definition of discriminatory misconduct, including sexual harassment, in this policy is meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, when related to a reasonable pedagogical purpose. Southeastern promotes intellectual inquiry and debate. The mere expression of views that might be seen as offensive does not by itself create a hostile environment or constitute a per se violation of this policy.

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### PROHIBITED ACTS

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#### 1.2.A Discrimination

Conduct directed at a specific individual or group of individuals that subjects the individual or group to treatment that adversely affects their employment or education, or their access to institutional programs, benefits, activities or benefits, on account of race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity, or status as a veteran.

#### 1.2.B Harassment

Any act, statement, or combination of acts and/or statements, on account of race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity, or status as a veteran, that is so objectively and subjectively severe or pervasive that it: (1) Deprives an individual of access to the education or employment opportunities or benefits provided by the university. (2) Create a hostile or abusive work or educational environment. (3) Creates a hostile or abusive environment for a visitor so as to deprive the reasonable visitor from exercising legal rights or privileges granted by the university in furtherance of the university's mission.

Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.<sup>1</sup>

#### 1.2C Sexual Harassment

Sexual harassment shall be defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following context:

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<sup>1</sup> U.S. Department of Education, Dear Colleague Letter on Harassment and Bullying, October 26, 2010.



- a) When submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;
- b) When submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or
- c) When such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.

(See RUSO POLICY MANUAL § 5.6.1)

Examples of Sexual Harassment

Conduct, whether in person, in writing, by telephone, through social media, by electronic means, or otherwise, prohibited by this policy includes, but is not limited to:

- a) Unwelcome sexual flirtation, advances or propositions for sexual activity;
- b) Continued or repeated verbal abuse of a sexual nature, such as suggestive comments and sexually explicit jokes;
- c) Sexually degrading language to describe an individual;
- d) Remarks of a sexual nature to describe a person's body or clothing;
- e) Display of sexually demeaning objects and pictures;
- f) Offensive physical contact, such as unwelcome touching, pinching, brushing the body;
- g) Coerced sexual intercourse;
- h) Sexual assault; or
- i) Actions indicating that benefits will be gained or lost based on response to sexual advances.

**1.2.D Sexual Violence/Assault** Sexual violence/assault is a particularly pernicious form of sexual harassment. Sexual violence/assault is any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.<sup>2</sup> The University may

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<sup>2</sup> Sexual violence includes, but is not limited to, rape as defined by 21Okla.Stat. § 1111; rape by instrumentation as defined by 21 Okla. Stat. § 1111.1; forcible sodomy as defined by 21 Okla. Stat. § 888, assault as defined by 21 Okla. Stat. § 641 when committed in a sexual context, in furtherance of sexual demands, or because of a person's sex or sexual orientation; battery as defined by 21 Okla. Stat. § 642 when committed in a sexual context, in furtherance of sexual demands, or because of a person's sex or sexual orientation; aggravated assault and battery as defined by 21 Okla. Stat. § 646 when committed in a sexual context, in furtherance of sexual demands, or because of a person's sex or sexual orientation; stalking as described by 21 Okla. Stat. § 1173 when committed in a

immediately suspend on an interim basis any employee or student reasonably believed to have committed sexual violence against another person in violation of this policy, with notice and hearing to follow promptly. Sexual violence includes, but is not limited to::

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

(See RUSO POLICY MANUAL § 5.6.1)

### **1.2.E Sexual Exploitation**

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. This includes but is not limited to:

- a. Nonconsensual video or audio recording of sexual or lewd activity, exceeding the boundaries of explicit consent.
- b. Engaging in voyeurism (as in a peeping tom).
- c. Knowingly transmitting a sexually transmitted disease or infection to another student or employee.

### **1.2.F Domestic Violence**

A felony or misdemeanor crime of violence committed

- a. By a current or former spouse or intimate partner of the victim.
- b. By a person with whom the victim shares a child in common.
- c. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner.
- d. By a person similarly situated to a spouse of the victim who is protected from that person's acts under the domestic or family violence laws of the State of Oklahoma, specifically: Okla.Stat. Ann. Tit. 21, §644.1.
- e. Domestic violence includes physical, sexual, emotional, economic, or psychological actions or threat of actions that influence another person.

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sexual context, in furtherance of sexual demands, or because of a person's sex or sexual orientation; sexual battery as defined by 21 Okla. Stat. § 1123(B); any sexual act involving a child as described in 21 Okla. Stat. 1123(A); maliciously intimidating or harassing or attempting to maliciously intimidate or harass another person because of that person's sex or sexual orientation; or inciting others, or attempting to incite others to maliciously intimidate or harass another person because of that person's sex or sexual orientation.

### **1.2.G Dating Violence**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

### **1.2.H Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress.

- a. "Course of conduct" means 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.
- b. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.
- c. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

### **1.2.I Attempts and Complicity**

Attempts to or encouraging others to commit acts prohibited by this policy will be sanctioned to the same extent as if one had committed the prohibited act. Apathy or acquiescence in the presence of prohibited conduct may constitute a violation of this policy.

### **1.2.J Retaliation**

Any attempt to penalize or retaliate against a person for filing a complaint or participating in the investigation of a complaint of discrimination, harassment, or prohibited sexual conduct will be treated as a separate and distinct violation (also see Section 5-7 and 5-11 of RUSO Policy Manual).

Retaliating against a person who brings a complaint forward or against an individual or who has participated or is participating in an investigation or this process is taken seriously and is prohibited.

The protections against retaliation are critical to reducing discrimination and sexual misconduct within the University community. Retaliation against anyone who has reported an incident of discrimination, harassment, or sexual misconduct, provided information, or participated in an investigation into a report is prohibited. Acts of retaliation include but are not limited to intimidation, threats, and harassment – whether physical or communicated verbally or written, as well as adverse changes in work or academic environments.

#### **1.2.K Obstruction**

Obstruction, misdirection, and interference with investigation procedures or outcomes is prohibited. This includes falsification, distortion or misrepresentation of information, knowingly filing a complaint without good faith, and the harassment or intimidation of an individual involved in the investigation and sanction process including witnesses. This also includes the failure to comply with sanctions properly imposed through the conduct process.

#### **1.2.L Employee Sexual**

##### **Conduct with Students**

No employee shall engage knowingly or attempt knowingly to engage in consensual or nonconsensual sexual conduct with any student whom the employee supervises, acts as academic advisor for, or over whom the employee has any power to determine the student's grade; honors; discipline; research opportunity; scholarship opportunity; acceptance in a graduate or other program of study; participation in arts, athletic, academic, or extracurricular competition; work-study assignment; or similar education-related matter. University employees' sexual liaisons with students in such situations exploit position, abuse power, and fundamentally harm the academic relationship. Voluntary intoxication with drugs, alcohol, or other substances shall not negate knowledge. (See RUSO POLICY MANUAL § 5.6.2 including the statement on exceptions to this policy).

#### **1.2.M Employee Sexual**

##### **Conduct with Supervisee**

Supervisors' sexual liaisons with their supervisees may exploit position, abuse power, and fundamentally harm the working environment. No supervisor may engage knowingly or attempt knowingly to engage in consensual or nonconsensual sexual conduct with any employee, not his or her spouse, whom he or she supervises, directly or indirectly. Voluntary intoxication with drugs, alcohol, or other substances shall not negate knowledge. (See RUSO POLICY MANUAL § 5.6.2 including the statement on exceptions to this policy).

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### 1.3 TRAINING FOR EMPLOYEES AND STUDENTS

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Educational materials related to sexual misconduct will be disseminated to each new employee and student in an online format, and these materials will be designed to be compliant with the Violence Against Women Reauthorization Act of 2013 as it amends existing Clery Act law. This is achieved through the use of the *EverFi Haven* modules for students and employees and ongoing training and awareness programs conducted by the Office of Compliance and Safety and in Student Affairs.

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### 1.4 DESIGNATION OF AND REQUIREMENTS FOR RESPONSIBLE EMPLOYEES

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While all instances of discrimination, harassment, and retaliation should be properly reported to the Office of Compliance and Safety or an appropriate supervisor, Title IX rules and regulations create a legal responsibility for “Responsible Employees” to report instances of gender-based discrimination, sexual harassment, and sexual assault. Southeastern has designated all employees except health care providers and clinical counselors in the Wellness Center as “Responsible Employees,” which means that if any instance of gender-based discrimination, sexual harassment, or sexual assault is reported to a University employee, then that employee should immediately report the incident or situation to the Title IX Coordinator. An employee’s report should include all relevant details, including time, place, and the individuals involved so that the University can conduct a prompt and proper investigation of the matter in order to preserve a safe campus. An employee should not share this information with law enforcement unless there is an emergency or a complainant requests such a report. If complainants wish to make a report to law enforcement, the employee will assist them in doing so.

**Note:** Before a complainant reveals any information to a responsible employee, the employee should ensure that the complainant understands the resources available to the complainant and the employee’s obligation as a mandatory reporter of the information. If the complainant wants to maintain confidentiality, then the complainant should be directed to a confidential resource such as a counselor. If the person who experienced the sexual misconduct wants to tell the responsible employee what happened, but maintain confidentiality, the employee should respond that the University will consider the request for confidentiality, but cannot guarantee that it will be honored. The confidentiality determination will be made by the Office of Compliance and Safety, based on a balancing of the complainant’s privacy interest and the safety of the University community. Employees shall never pressure a complainant to make a full report if the individual is not comfortable doing so.

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### 1.5 THE CIVIL RIGHTS AND TITLE IX COMMITTEE

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The Civil Rights & Title IX Committee, or an appointed panel therefrom, will hear all claims arising under this policy, including discrimination, harassment and retaliation related to a civil rights protection or Title IX. This includes all claims that cut across the various constituencies of faculty, staff, students, contractors, and visitors. Additionally it includes all claims that the institution’s

policies, procedures, services, determinations or other actions are discriminatory and cases where there is no specifically named respondent.

**Note:** A subset of Civil Rights and Title IX Committee members will be trained at least annually on issues specifically relating to Title IX and the four VAWA-specific categories of Dating Violence, Domestic Violence, Sexual Assault, and Stalking. This training is required by 79 CFR 62773 § 668.46(k)(2)(ii). This training will include definitional understanding including the definition of consent, and how to conduct a hearing process that protects the safety of victims and promotes accountability. This training may be done by the Title IX Coordinator or through other trainings, webinars, seminars, etc.

## PART TWO PROCEDURE

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### 2.1 INITIAL REPORTING

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Employees, staff, students, campus visitors or any other participant in a University program or activity who have been a victim of discrimination, harassment, or retaliation (including sexual harassment or sexual assault) should report the incident immediately.

#### 2.1.A Emergency

##### Reporting to Police

Incidents of discrimination do not always amount to criminal conduct, but instead are enforced through administrative processes to preserve equity, equal opportunity, and the protection of civil rights. However, some conduct covered by this policy is indeed criminal and should be reported as such – especially acts of domestic violence, dating violence, sexual assault, and stalking. Filing a police report allows for immediate evidence gathering procedures to be implemented which preserves future options regarding criminal prosecution, university conduct sanctions, and civil or criminal actions against the perpetrator of the crime. Reports made to Campus Police will serve to simultaneously notify University officials including the Title IX Coordinator.

Incidents can be reported to Campus Police at 301 University Boulevard by calling their emergency number at 580-745-2911 or non-emergency number at 580-745-2727. If the incident occurred off-campus, it is appropriate to call the local Police Department by dialing 911.

#### 2.1.B Non-Emergency

##### Reporting to the University

All university employees have a duty to forward information reported to them to the Title IX Coordinator or a supervisor, unless they are a confidential resource such as a health care provider or clinical counselor in the Wellness Center. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details will be shared with the Title IX Coordinator. If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator who will evaluate that request with legal counsel in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the victim/complainant

requests confidentiality or no formal resolution and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the victim and the community but the University will investigate and resolve the complaint to the extent possible without breaching confidentiality or revealing the complainant's identity.

A reporting party has the right, and can expect, to have reports taken seriously by University when formally reported, and to have those incidents investigated and properly resolved through this policy. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Office of Compliance and Safety; Division of Student Affairs; Campus Police, and the Behavioral Intervention Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Records will not be disclosed outside the University unless required by law.

To report any act of discrimination, harassment, or retaliation covered by this policy, the primary point of contact is the Title IX Coordinator. Students may wish to contact the Dean of Student Affairs as an alternate option.

Michael J. Davis, Title IX Coordinator  
Director of Compliance and Safety  
Administration Bldg., Room 311  
580-745-3090  
[mdavis@se.edu](mailto:mdavis@se.edu)

Liz McCraw, Dean of Student Affairs  
Office for Student Affairs  
Room 312 Glen D. Johnson Student Union  
580-745-2080  
[lmccraw@se.edu](mailto:lmccraw@se.edu)

### **2.1.C Anonymous Reporting**

Anonymous reports may prompt a need for the institution to investigate and should not be utilized for reporting emergencies. Emergencies should be reported by contacting the police (see above). Anonymous reporting may inherently limit the scope of the investigation due to limited information and evidence. The following anonymous reporting options have been made available:

1. Filing a student misconduct report through the University's Maxient incident reporting system:



<https://publicdocs.maxient.com/incidentreport.php?SoutheasternOKStateUniv>

2. Filing a “silent witness” report with Campus Police at the following link: <http://homepages.se.edu/public-safety/campus-police/silent-witness-information-form/>
3. Downloading the 911Shield app on your iPhone or Android smartphone and filing an “iReport” with Campus Police.
4. Filing an anonymous tip with the Regional University System of Oklahoma through the RUSO Tip Line in EthicsPoint: <https://secure.ethicspoint.com/domain/media/en/gui/30756/index.html>

#### **2.1.D Confidential Reporting**

##### For students:

If a student would like the details of an incident to be kept confidential and would like to decline to report an incident to the University or law enforcement, the reporting party may still speak with counselors in the Southeastern Oklahoma State University Student Counseling Center, GDJ Student Union, Room 200, (580)745–2988. The Counseling Center will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors are available to help free of charge to students and can be seen on an emergency basis during normal business hours. These employees will submit yearly anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

##### For employees:

Employees can contact the Crisis Control Center at (580) 924-3000. Additionally, employees can contact the National Sexual Abuse Hotline at 800-656-4673. Resources may also be available through the Employee Assistance Program offered through Lincoln National Life Insurance Company at 1-877-757-7587 or [www.eapadvantage.com](http://www.eapadvantage.com).

***NOTE:*** Victims reporting violations of this policy should be aware that university administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The university will make every effort to ensure that a victim’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

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## **2.2 INVESTIGATION OF A GRIEVANCE**

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### **2.2.A Process**

An individual may initiate the investigation process by filing a grievance with the EEO/Title IX Coordinator. Grievances will be reduced to writing if they not already in writing. An investigation into discrimination, harassment, or retaliation may be initiated regardless of whether a formal grievance has been filed or not. The Title IX Coordinator will be available to explain the process to involved parties or third parties as requested. The investigation process will be prompt, fair, and impartial. This means the process will be completed within a reasonable timeframe and without undue delay. The individuals involved in the investigation shall not have a conflict of interest or bias for the complainant or respondent. Information relevant to conflict of interest should be disclosed by any investigating authority under this policy. If a respondent feels that any investigating authority under this policy has a conflict of interest, a description of the conflict shall be disclosed to the Title IX Coordinator as soon as possible so that a determination can be made as to whether to replace that investigator. The investigation model is different depending on whether the respondent is an employee, student, University contractor, or a visitor. In cases of contractors and visitors, the University may have limited jurisdiction over the grievance and limited ability to secure any sanction beyond banning or removing specific individuals from campus or terminating various vending agreements. Investigations shall not last longer than 60 days unless there is a circumstance that reasonably hinders the investigation. Complaints of discrimination or retaliation, by or against the President, shall be investigated by someone who does not work for Southeastern. That person shall be determined by the RUSO Board in its sole discretion.

### **2.2.B Distinct and Separate Process**

The University may undertake a short delay to allow evidence collection when criminal charges on the basis of the same behaviors that invoke this process are being investigated by police or other law enforcement. University action will not be precluded on the grounds that civil or criminal charges involving the same incident have or have not been filed or that charges have been dismissed or reduced. The Civil Rights & Title IX Process is distinct from any criminal investigation and flows from the University's obligation under Title IX and other equity laws to ensure it is providing a safe and nondiscriminatory environment. If a complainant wishes to pursue criminal processes only and wants to waive any University response to the situation, they should make that request to the Title IX Coordinator – and such requests will usually be respected unless the University must act independently to preserve the safety of the campus community from a threat or future violation of policy.

### **2.2C Gatekeeping**

No formal investigations shall commence unless the Title IX Coordinator or designee determines through a preliminary investigation that enough information exists and that a case merits investigation. This gatekeeping function is based on whether reasonable cause exists to believe that policy may have been violated. If the preliminary stages of investigation, including the information from the grievance itself, do not produce sufficient evidence to believe a policy may have been violated, then the investigation will cease and no formal notice of charges will be issued and no hearings will be held. Additionally, this gatekeeping function shall consider any requests for inaction from the University or confidentiality from the complainant and evaluate whether there is enough of a pattern of misconduct or threat of further harm to the campus community to honor those requests or not.

### **2.2D Investigation Procedures**

If the complainant is not anonymous and is available, the Title IX Coordinator or appropriate designee will meet with the complainant to discuss the complaint submitted, review the investigation and hearing

process, and discuss the outcome desired from the complaint. The complainant will be notified of receipt of the grievance and the immediate interim actions or remedies the university will take, if any. The gatekeeping determination mentioned above can be determined at this point, or in any other of the preliminary phases of investigation.

If the respondent in the grievance is a student, then the Student Conduct Coordinator and/or other appropriate Student Affairs professionals will be appointed by the Title IX Coordinator to conduct an investigation. If the respondent in the grievance is an employee, contractor, or visitor, then the Title IX Coordinator or a team of investigators from the pool of Civil Rights and Title IX Committee members will be appointed to investigate.

This investigation will include meeting with the complainant(s) and with the respondent(s), meeting with relevant witnesses, and reviewing any relevant evidence, including any prior complaints of misconduct, and making any site-visits as needed. Parties may have an advisor present during any investigation meeting. The role of the advisor will be limited to being present only; the advisor will not be permitted to speak during any meeting, interview or hearing relevant to the investigation. If the advisor is an attorney, the party shall notify the Title IX Coordinator that an attorney will be present at least two days prior to the meeting, interview or hearing.

The parties involved will have equal opportunities to present information to the investigators. Investigators will compile an investigation report at the conclusion of the investigation. This report will include relevant details to the investigation and make a recommendation for sanction or other remedy if appropriate.

For Investigations of Gender-Based Discrimination, Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence and Stalking:

Information related to prior sexual history [of either of the parties will be prohibited, except in very limited circumstances regarding prior sexual history between the parties where such information may be relevant to the issue of consent. However, consent will not be assumed based solely on evidence of any prior sexual history. Any and all investigators of these matters will have the appropriate required and ongoing training on conducting trauma informed gender-based and sexual misconduct investigations.

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### **2.3 AGREEMENT-BASED RESOLUTION OPTIONS**

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In appropriate cases the University may choose to pursue alternative resolution with the consent of all parties at any point in the investigation process. Alternative resolution options can include mediation, specific action plans, voluntary agreements, or sanctions. Under any alternative resolution, the complainant will not be required to resolve the problem directly with the respondent, unless desired by the complainant. All parties must be notified of the right to end the alternative resolution process at any time and resume the formal process. Mediation shall not be used in cases involving sexual violence. The investigator will document the outcome of any alternative resolution and share with the parties and the Title IX Coordinator.

In cases where the facts are generally not in dispute, and the respondent expresses a willingness to accept responsibility for all charges in a case, with the consent of the complainant, the respondent will be offered the opportunity to waive the right to a hearing and agree to receive a sanction from the University. The parties will be provided the opportunity to submit a written statement to the Title IX Coordinator, who will share this information with appropriate supervisory personnel for employee respondents or the Student Conduct Coordinator for student respondents for consideration in determining appropriate sanctions. The sanction decision will be made based on investigation information and the written statements, as well as any conduct history on the part of the respondent. Any appeal in an acceptance of responsibility resolution will be limited to the grounds that the sanction provided by the University is grossly inappropriate in light of the violations committed, or relevant aggravating and mitigating factors, and in consideration of applicable policy. Both the complainant and the respondent shall have the same right of appeal. RUSO policy protects a student's right to appeal a suspension, expulsion, or recession of credit to the Student Conduct Committee for any reason.

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## **2.4 HEARING PROCEDURES**

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If neither agreement-based resolution option is appropriate or if they are declined by the parties, a hearing will take place if there is still, after investigation, enough reasonable cause on which to hold a hearing. If, after full investigation, there is no reasonable cause to believe a policy may have been violated then the grievance process can still terminate at this point for that reason at the discretion of the Title IX Coordinator.

Once the investigative report is completed, a panel of three Civil Rights and Title IX Committee members will be assembled to hold a hearing. Any investigators of the case are not eligible to serve on the hearing panel, but shall be available to explain their investigative report to the panel.

Hearing notification will occur at least five days in advance and include the hearing date, time and location. Hearings will be scheduled around work or class schedules, and will not be postponed unless extraordinary circumstances exist. At least five days prior to the hearing, the parties may view the investigative report that will be submitted to the hearing panel for review. Copies of the investigative report may not be kept or copied as a personal item in interest of preserving the continued privacy of those involved, except as FERPA may require. Advisors to the parties may have similar access to view the report.

Allegations of discrimination, harassment, or retaliation will be heard by the panel. The hearing includes opening statements, discussion of relevant parts of the investigation report, information about the incident or incidents, presentation of information by witnesses brought by the parties, and closing statements. Each party is permitted to have a person of their choosing to accompany them throughout the hearing as an advisor. Their advisor may confer quietly with their party, exchange notes, clarify procedural questions, and generally assist the party in all manner other than speaking for them on their behalf or to the panel on a substantive matter.

In sexual misconduct or other harassment cases, and at the complainant's request, the hearing room can be arranged in such a manner that prohibits line-of-sight between the complainant and respondent with screens in place. All parties are permitted to make statements and present their own witnesses and information during the hearing. The parties may challenge or provide context to information presented in the investigative report. Witnesses and information need to be directly related to the incident.

Complainant and Respondent have the same opportunity to be present and participate, including the presentation of witnesses, information, and asking questions to the witnesses. Unduly repetitive character witnesses can be limited at the discretion of the panel.

In sexual misconduct or other harassment cases, the complainant and respondent may not directly question each other, but may submit questions to the chair to be asked of the other party. The chair or other panel members will review questions prior to posing to the other party to prevent questioning that is not permitted under these proceedings.

The hearing panel will make a determination of the policy violations and recommend sanctions and remedies, if any, to the supervisor if the respondent is an employee, or the Student Conduct Coordinator if the respondent is a student. The Supervisor/Student Conduct Coordinator does not have the authority to change the policy violation determination – that is NOT a recommendation.

The standard of proof used in all university hearings is preponderance of the evidence.

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## **2.5 OUTCOME**

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The outcome will be determined by a majority vote of the panel, and the sanction can be based not just on the facts in the present case but also any conduct history of the respondent in totality. Possible outcomes include the entire range of sanctions listed in this policy. Specifically, the panel shall determine if the respondent is responsible or not responsible for violations of this policy and recommend a sanction if they are responsible. Both parties have the right to be informed simultaneously, in writing, of the outcome. Both parties will be notified within seven business days after the hearing.

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## **2.6 APPEAL**

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In cases of sexual assault, domestic violence, dating violence, and stalking, both parties have the right to appeal the decision reached through the hearing proceedings. In other cases, only the respondent has a right to an appeal.

Appeals shall be on paper, to a three-person panel consisting of the Title IX Coordinator, a Deputy Title IX Coordinator, and depending on whether the respondent was a student or employee – the appropriate supervisor or the Coordinator of Student Conduct. The written appeal must include the basis for seeking the appeal and include information to support such basis. It shall be received by the Title IX Coordinator no later than two (2) calendar days after the date of the determination being appealed. If no written request for an appeal is received by the University within the time specified, the request for an appeal will not be reviewed and any sanctions imposed will be final.

An appeal must be based on one of the following bases:

- (1) Significant procedural error that reasonably would have affected the outcome of the case.
- (2) The sanction is grossly disproportionate to the violations committed in light of all relevant aggravating and mitigating factors and in consideration of University guidelines.
- (3) New evidence is now available that was not previously available.

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## **2.7 PRESERVATION OF OTHER RIGHTS**

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If a tenured faculty member is dismissed from employment as a result of the process outlined in this policy, that individual preserves the right to appeal to the Appellate Committee on Dismissal of Tenured Faculty Members, consistent with section 4.6.12 in the Academic Policies and Procedures Manual. If a tenured faculty member receives a sanction other than dismissal, then that individual preserves the rights in section 4.6.11.

Employees preserve the rights listed in the Employee Handbook, Section 9 and 10. Nothing in this policy is intended to conflict with the provision of those employment appeal rights.

Students who were respondents who were sanctioned via this policy and complainants in a case brought through this policy for gender-based discrimination, sexual harassment, domestic violence, dating violence, sexual assault or stalking have exhausted their appeals. The Civil Rights and Title IX Committee serves as the “Committee on Student Conduct” for these cases. However, students who were respondents in a case brought through this policy for any other violation, and who received a sanction of suspension, expulsion, or degree revocation maintain their right to a hearing before the Committee on Student Conduct as described in the Student Handbook.

The University may impose an interim suspension on an employee or student during the investigatory phase. If the University pursues this route, employees preserve rights listed in § 9.4 of the Employee Handbook, Tenured Faculty preserve rights listed in § 4.6.7 of the Academic Policies and Procedures Manual, and Students preserve rights listed in § C(2)(g) of the Student Handbook.

## PART THREE

### INFORMATION SPECIFIC TO SEXUAL HARASSMENT & ASSAULT

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#### 3.1 IMMEDIATE PROCEDURES FOR SEXUAL ASSAULT VICTIMS

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**3.1.A** 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.

**3.1.B** If unable to get to the Emergency Room, get to a safe, secure place.

**3.1.C** Report by one of the following options:

- a. To report as a crime or emergency, notify Campus Police (580) 745-2911 and/or Durant or other local Police at 911.
- b. To report to the University and/or to have University officials assist you in notifying law enforcement, contact one of the following resources:
  - i. Housing and Residence Life
    1. Main office: 580-745-2948 (use this # during regular business hours)
    2. Other Housing Contact: (580) 380-7460
  - ii. The Title IX Coordinator: 580-745-3090
  - iii. The Dean of Student Affairs: 580-745-2080

If you are a student and prefer not to notify law enforcement or responsible University officials, you may access campus services from the University Counseling Center. Or you can call the Crisis Control Center at (580) 924-3000 or call another support agency or office. If you are an employee and prefer not to notify law enforcement or responsible University officials, you may contact the Crisis Control Center at (580) 924-3000. Additionally, employees can contact the National Sexual Abuse Hotline at 800-656-4673. Resources may also be available through the Employee Assistance Program offered through Lincoln National Life Insurance Company at 1-877-757-7587 or [www.eapadvantage.com](http://www.eapadvantage.com). Please remember that reluctance or unwillingness to make a complete report to campus security and the police will make it difficult for either the police or the University to take appropriate action or safety measures; this includes reporting the dangers to the campus community.

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#### 3.2 MANDATORY REPORTING - SEXUAL MISCONDUCT INVOLVING A CHILD OR A MINOR

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Sexual misconduct involving a child/minor (anyone under 18 years of age) must be reported. Oklahoma state law requires that any person who has reason to believe that a minor is a victim of child abuse or neglect (including sexual misconduct) has an affirmative duty to make an oral report to the Department

of Human Services. You may do so using the Department of Human Services hotline at **1-800-522-3511**. Failure to report may result in criminal charges.

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### **3.3 AMNESTY**

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The University strongly encourages students and employees to report instances of sexual misconduct. Therefore, students reporting an incident of sexual misconduct will not be disciplined by the University for offenses that are minor in scope and consequence that are connected to the incident of sexual misconduct. For offenses of a more serious scope, a diminished penalty will be considered if deemed appropriate under the conduct process so long as the offense is entangled in an instance of sexual misconduct and the individual requesting amnesty did indeed report the matter promptly.

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### **3.4 RISK REDUCTION AND BYSTANDER INTERVENTION**

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Do not confuse risk reduction tips for victim-blaming. The Federal Violence Against Women Reauthorization Act of 2013 and associated Department of Education Regulations on the Violence Against Women Act (34 CFR Part 688) requires institutions of higher education to provide risk reduction tips to the campus community. These tips are offered in the hope that recognizing patterns can help men and women to reduce the risk of victimization. Generally, an assault by a known offender will follow a four step pattern:

1. An individual's personal space is violated in some way. For example the perpetrator may touch the victim in a way that does not feel comfortable.
2. If the victim does not express discomfort, the perpetrator may begin to view the victim as an easy target because she/he is not acting assertively.
3. The perpetrator may take the victim to a location that is secluded and where the victim is vulnerable.
4. The victim feels trapped or unable to be assertive and is raped or assaulted.

If you find yourself in an uncomfortable sexual situation, these suggestions may help you to reduce your risk:

- Make your limits 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.

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 to 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. They may not have figured out how far they want to go with you yet. 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 some form of sexual behavior does not automatically imply consent to any 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.

### **3.4.A. Safe and Positive Options for Bystander Intervention**

Reducing instances of sexual assault and other gender-based misconduct must be a team effort, involving all members of the campus community. We must all take it upon ourselves to respond appropriately when we notice something inappropriate or dangerous. The following are positive options for bystander intervention:

- Notice the Incident. Bystanders first must notice the incident taking place. Obviously, if they don't take note of the situation there is no way they can help.
- Interpret Incident as Emergency. Bystanders also need to evaluate the situation and determine whether it is an emergency, or at least one in which someone needs assistance. Again, if people do not interpret a situation as one in which someone needs assistance, then there is no need to provide help.
- Assume Responsibility. Another decision bystanders make is whether they should assume responsibility for giving help. One repeated finding in research studies on helping is that a bystander is less likely to help if there are other bystanders present. When other bystanders are present responsibility for helping is diffused. If a lone bystander is present he or she is more likely to assume responsibility. Defeat this tendency by assuming responsibility and helping whenever you can safely do so, whether you are alone or in a group of bystanders.
- Attempt to Help. Whether this is to help the person leave the situation, confront a behavior, diffuse a situation, or call for other support/security.
- Tips for Intervening: In a situation potentially involving sexual assault, relationship violence, or stalking:
  - Approach everyone as a friend
  - Do not be antagonistic
  - Avoid using violence
  - Be honest and direct whenever possible
  - Recruit help if necessary
  - Keep yourself safe

- If things get out of hand or become too serious, contact the police

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### 3.5 NOTIFICATION OF RELEVANT LAWS

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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 the Oklahoma State Court Network website at <http://www.oscn.net>.

1. DEFINITION OF RAPE Oklahoma Penal Code, 21 O.S. §1111 defines rape as: 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; or 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. 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. i. 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.

2. DEFINITION OF CONSENT Oklahoma Penal Code, 21 O.S. §1114, indicates consent is not effective in cases of: a. rape committed by a person over eighteen (18) years of age upon a person under fourteen (14) years of age; or b. 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 c. 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 d. 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 e. 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 f. 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 g. rape by instrumentation committed upon a person under fourteen (14) years of age.

3. DEFINITION OF DOMESTIC/DATING VIOLENCE Oklahoma Penal Code, 21 O.S. §644, defines domestic and dating violence as: "...any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, a former spouse of a present spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is or was in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic abuse." 4. Definition of Stalking Oklahoma Penal Code, §21-1173, defines stalking as: "Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that: a. 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 b. Actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed, or molested..."

## PART FOUR

### VICTIM CARE, PROTECTIVE, AND REMEDIAL MEASURES

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#### 4.2 INTERIM REMEDIES

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The Title IX Coordinator, Student Conduct Coordinator, or Dean of Student Affairs may, as requested by the complainant and as necessary, provide interim remedies intended to address the short or long-term effects of alleged harassment, discrimination and/or retaliation, *i.e.*, to redress harm to the complainant and the campus community and to prevent further harassment or violations. Interim remedies may also be used when, in the judgment of the Title IX Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on campus of the accused individual or the ongoing activity of a student/campus organization whose behavior is in question. These interim remedies may include

- Referral to counseling and health services or to the Employee Assistance Program
- Altering the housing situation of an accused student or resident employee (or the complainant, if desired).
- Altering work arrangements
- Providing campus escorts
- Implementing contact or geographic limitations between the parties
- Offering adjustments to academic deadlines, course schedules, dining arrangements, etc.
- Impose an interim suspension on an employee or student.
- Ban specific contractors or visitors from campus.
- Re-assignment of job tasks or supervisory authority
- Provision of immediate alternative office location or workstation
- Support and guidance for obtaining a protective order

To the extent possible privacy and confidentiality will be protected throughout the implementation of all victim care and protective measures. Medical treatment is available through local physicians or at Alliance Health Durant where evidence may be collected to preserve the option of prosecution if the victim so chooses.

The University will provide written notification to victims about options for, available assistance in, and how to request changes to a working situations or other protective measures. The University will provide these measures 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. This written notification will also include options for existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services if they are available for victims within the University or the local community. This written notification may be in the form of a brochure-style pamphlet.

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## 4.2 SANCTIONS

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### 4.2.A Possible Sanctions for Students Under This Policy:

- **Warning.**
- **Customized Restrictions or Projects:** 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, no contact orders (may include restricted access to campus services/amenities/enrollment/facilities/etc.) , assigned a mentor/role model, required community/organizational involvement, restitution for damages, punitive fines, eviction from residence halls, loss of privileges (i.e. visiting privileges in housing or denial of access to computer or other campus services) prohibiting membership or leadership in campus organizations; or denial of participation in any official athletic or non-athletic extracurricular activity, including practices or travel; or withholding of official transcript or degree; or blocking from enrollment for a specified period of time; intervention program (may require a fee); or any combination of the above.
- **Conduct probation:** A student may be placed on conduct probation for a specified time frame. If a second violation occurs while a student is on probation, disciplinary action will be based on both charges. If the student has a Dean's disciplinary hold on the student records, it is removed at the discretion of the Conduct Officer.
- **Suspension:** A student may be suspended from the University for a definite period of time not less than the remainder of the current semester in which student is enrolled. The student who has been suspended may apply for readmission at the close of the period for which the student was suspended. A suspension hold will be placed on the student's transcript during the period of suspension.
- **Expulsion:** When a student is expelled, a record of this action will be noted on the student's transcript and it will be 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.
- **Degree revocation or rescission of credit.**
- **Temporary suspension:** A student may be temporarily suspended from the university or university housing prior to the student code of conduct hearing to ensure safety and well-being of members of the university community or preservation of university property; to ensure a student's own physical or emotional safety and well-being; and/or if the student poses an ongoing threat or disruption. Such an administrative decision will be effective immediately. During the temporary suspension, a student may be denied access to university housing and/or all other university activities, privileges, and property for which the student might otherwise be eligible, as the conduct officer may determine to be appropriate. The temporary suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a student hearing and appeal, if required. The student will be notified in writing of this action and the reasons for the temporary suspension. The notice shall include the time, date,

and place of an initial hearing 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.

#### **4.2.B** Possible Sanctions for Employees Under This Policy:

- **Warning:** A warning is a formal method of informing an employee of a violation of University rules, guidelines, and/or policies. Additional violations will initiate the progressive disciplinary process.
- **Mandated Assessment** by a university approved licensed psychologist, physician or healthcare provider.
- **Access restrictions:** geographically defined as needed.
- **Reassignment:** relocation to new job location or new job duties either physically or structurally.
- **Demotion:** A reduction in rank or status.
- **Suspension with pay:** Temporary removal of an employee from performing his/her work duties.
- **Suspension without pay:** Temporary removal of an employee from performing his/her work duties and from receiving pay.
- **Nonrenewal**
- **Termination:** If the nature of the violation is so problematic and/or harmful to the campus community that a warning or a suspension is not appropriate; the University's recommendation will be to terminate employment.

#### **4.2.C** Possible Sanctions for Contractors and Visitors Under this Policy

- **Warning:** A warning is a formal method of informing a contractor or visitor of a violation of University rules, guidelines, and/or policies.
- **Ban:** Individuals or groups may be formally banned from University property or sponsored events
- **Termination:** Contractor agreement will be terminated.

## PART FIVE

# DISABILITY RIGHTS

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### 5.1 DEFINITION

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#### **Person with Disability**

Any person who:

- has a physical or mental impairment that substantially limits one or more major life activities,
- has a record of such impairment, or
- is regarded as having such an impairment.

#### Major Life Activity:

“Major life activity” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, major bodily functions, and an impairment that is episodic or in remission.

#### A Qualified Individual with a Disability:

An individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

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### 5.2 REASONABLE ACCOMMODATIONS

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The Office of Compliance and Safety is the central contact point for making reasonable accommodation requests in accordance with applicable law. Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act of 2008 protect the right to be accommodated for disability at public institutions of Higher Education.

#### Accommodation Requests:

It is the responsibility of all students and employees to direct any requests for disability related accommodations to the Office of Compliance and Safety in a timely manner. Please be prepared to discuss the nature of the disability and to provide relevant documentation to the coordinator if the nature of the disability is not readily apparent. The student or employee will be asked to fill out an information form, designating precisely what type of accommodations they feel are needed. Requests should be made in advance of the anticipated need for accommodations to allow for a reasonable period of time in which to evaluate those needs and requests. Guests, employment applicants, and

other campus visitors may also request accommodations for meetings they attend and other campus functions.

Students must be admitted to and/or enrolled in the University to request accommodations. The Director of Compliance and Safety will make a case-by-case determination of any requesting party's educational or employment need for any requested auxiliary aids, accommodations, and/or other special services determined to be necessary. These services, and equipment (if deemed appropriate), will be provided at no cost to the student or employee. Students may request accommodations for class, housing, dining, student life (such as organizations, athletics, etc.), and campus jobs. Employees may request accommodations necessary for them to fulfill functions in their job description or other employment based expectations and to enjoy all the benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities.

#### Student Accommodation Renewal by Semester:

It is the responsibility of all students who receive accommodations or services through the Office of Compliance and Safety to renew their accommodation request at the time of their enrollment for any subsequent semesters. This can be done at any time by contacting 580-745-3090. As a matter of practice, the Director of Compliance and Safety will automatically check enrollment for all students who received accommodations or services the prior semester, however this does not remove from the student their responsibility to renew their request. This renewal is especially important for students who have taken a semester off or declined accommodation during the previous semester, because the Office of Compliance and Safety will have no way of knowing whether you wish to receive accommodations or services for the upcoming semester.

#### Interim Accommodations:

When accommodations cannot be provided immediately, interim accommodations will be provided when feasible. Interim accommodations will be determined on a case-by-case basis and are not guaranteed. In determining whether an interim accommodation will be granted, the Director of Compliance and Safety will consider the student or employee's disability in relation to the obstacles that will arise before the accommodation would normally be processed. Students and employees should know that interim accommodations are not indicative that a reasonable accommodation will be approved, but are courtesies until the accommodation request can be processed. Interim accommodations will only be granted for 8 business days. If a student or employee needs a longer interim accommodation, they will need to contact the Office of Compliance and Safety to discuss their options. The need for interim accommodations may arise when students or employees are waiting for documentation from their treating physicians or other documentation providers.

#### Temporary Disabilities

Students with temporary disabilities/injuries may also seek accommodations. The process will be the same as for longer accommodations, however, the accommodation letters may show an end or expiration date or the Director of Compliance and Safety may request that the student or employee update the office when the accommodation is no longer necessary.



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### 5.3 DOCUMENTATION

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Students and employees requesting accommodations through the Office of Compliance and Safety should be prepared to provide documentation unless their disability and related impairments are readily apparent. While documentation is not always necessary, it is usually necessary and useful in the process of determining the scope and structure of reasonable accommodation on a case-by-case basis, and in the course of requesting accommodation such documentation may be requested.<sup>3</sup> This documentation policy is rooted in disability accommodation documentation guidelines promulgated by the Association on Higher Education and Disability in April 2012.<sup>4</sup>

#### Testimonial and Observational Documentation

The documentation process begins with an interactive process and self-report by the student or employee with the Director of Compliance and Safety.<sup>5</sup> This self-report is crucial to a specific understanding of access barriers that a student may encounter at the University, and the relation between those access barriers and the disability. After learning from the student or employee's personal narrative, history of experiences, and past accommodation, the Director is better informed of the nature and significance of the impairment and has a context from which to begin a determination of reasonable accommodation. In some cases, this step will be sufficient by itself to make an informed determination of eligibility for accommodation. The value of this initial disclosure is variable and subjective. Important factors include internal consistency, clarity, and congruency with observation.

#### Written or Formal Documentation

When there are informational gaps in a student or employee's self-report, and when the existence, scope, and nature of a mental or physical impairment are not apparent, it is appropriate for the Director to request information from the student or employee that remedy the shortcomings of mere observation and discussion. Written documentation will be used to verify the existence and scope of an impairment, provide further context on accommodation history, and can provide the Director with information from medical or psychological professionals on what accommodations are deemed appropriate by those professionals.

For all non-apparent disabilities, the Director of Compliance and Safety will request some form of written documentation that meets the need for making a determination of qualification for reasonable accommodation. This may include but is not limited to:

- Medical records, reports, or assessments from health care providers.

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<sup>3</sup> The post-2008 regulations state that the primary purpose of the ADA Amendments "is to make it easier for people with disabilities to obtain protection under the ADA." 29 C.F. R. Section 1630.1(c) (4).

<sup>4</sup> The AHEAD Guidelines are designed to encourage institutions to avoid unduly burdensome or extensive medical and scientific evidence on the part of an individual requesting disability accommodation, in light of the ADA Amendments Act of 2008. <http://ahead.org/resources/documentation-guidance>.

<sup>5</sup> Students may self-report to another Student Affairs professional in cases where the Coordinator is unavailable within a reasonable time.

- Information from school psychologists, teachers, or other education providers.
- Copies of past accommodation history, including Individual Education Programs (IEP) or Summary of Performance (SOP) documents, and plans that may have been implemented in primary and secondary school to comply with Section 504 of the Rehabilitation Act (504 Plans).
- A letter from a treating physician, psychologist or psychiatrist, or other appropriate medical professional.
- Results from appropriate diagnostic instruments administered by a qualified diagnostician.
- An audiogram or visual acuity measurement administered by a qualified professional.
- Information on file with a Vocational Rehabilitation agency.
- Accommodation information from other Colleges and Universities the student may have attended.

External documentation will typically need a level of specificity that meets the need of the Director to fill in gaps from the personal narrative, and which verifies the existence of an impairment and offers context for the nature and scope of the impairment. Documentation of insufficient detail may result in a new documentation request. Documentation must generally be recent enough in time to still be valuable in the accommodation process. The unique attributes of the full range of disability prohibit an exhaustive list of potential documentation sources. Using diagnostic and/or technical information is different than using it for treatment, and a commonsense standard will be applied for interpreting written documentation. When necessary, the Director may consult with other professionals in order to better understand submitted documentation.

### The Determination

Once the information-gathering phase is complete, the Director of Compliance and Safety will notify the requesting student or employee within a reasonable time about which accommodations will be made, as well as overall approval or disapproval of the accommodation request. The fundamental question being asked is: “Would an informed and reasonable person conclude from the available evidence that a disability is likely and the requested accommodation is warranted?”<sup>6</sup>

Accommodation letters for students will typically have a longevity of one semester, at which time the student must request renewal of their approved accommodations. Accommodation letters for employees will be customized to fit the situation. Requests for ineffective modifications or requests that amount to something that fundamentally alters or undermines the academic mission of the University will not be deemed reasonable. Requests that constitute an undue burden will not be deemed reasonable.

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<sup>6</sup> AHEAD Documentation Guidelines, April 2012, page 4.

### Storage and Sharing of Documentation

Disability related documentation for students and employees registered with approved accommodations with the Office of Compliance and Safety are kept for the duration of that students enrollment or the employee's employment at the University. After a student or employee no longer receives accommodations, documents are stored for three years in accordance with State Law.<sup>7</sup> No records will be shared beyond a need-to-know basis without the express written and knowing consent of the student.<sup>8</sup>

### Student Accommodation Letters

Students who have been approved for classroom accommodations will receive an official Accommodation Letter that details specific approved academic modifications. This letter might not describe all accommodations or services that the student is approved to receive at the University, as it is intended to be a method to facilitate academic accommodation only. For example, the fact that a student may require transportation accessibility for school trips might not appear on the Accommodation Letter, since that is not a day to day classroom accommodation.

A student will receive an Accommodation Letter at the time of the activation of their accommodation or renewal. Additionally, the Office of Compliance and Safety will send a copy of the Accommodation Letter to each of that student's faculty members via email prior to the beginning of each semester. It is up to the student to communicate with their instructors if they choose to decline accommodation in a specific class. Students should consult with their instructors the first day of class or during faculty office hours to discuss their accommodations with each instructor, and ensure that proper communication about those accommodations begins in a manner that meets expectations. Failure to communicate with instructors about accommodations often leads to confusion and misunderstanding. Any student with a concern that their accommodations are not properly being implemented should immediately contact the Office of Compliance and Safety. Students who want to make a formal request to modify their accommodations should do the same.

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## **5.4 HOUSING ACCOMMODATIONS**

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Students who require a live-in attendant or who must use/house adaptive equipment that requires more than the allotted space for a roommate (over 50% of the room) will be charged the regular double rate rather than the higher private room rate. This determination will be made by the Director of Residence Life and the Director of Compliance and Safety. For all other disabilities, a decision on a request for a single room (at the private room rate) will be made by the Director of Residence Life and the Director of Compliance and Safety on a case-by-case basis based on whether the request constitutes

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<sup>7</sup> Section 1-59 of the Oklahoma Consolidated General Records Disposition Schedule for State Colleges and Universities, as updated October 16, 2014.

<sup>8</sup> The documentation policy was updated by the ADA Committee on 8/24/06, Approved by the Committee on 11/08/06, Revised by the Committee on 12/01/14, and approved by Legal Counsel on 12/08/2014.

a reasonable accommodation. Requests should be made three months in advance. Late requests may not be accommodated if housing is unavailable, including housing that is already under contract.

Southeastern Oklahoma State University encourages students to experience double occupancy residence, if possible. Distraction free study areas are available on campus and negotiating with a roommate for time and space are considered opportunities for personal growth while on campus. For housing applications and/or further information, please contact the Director of Residence Life, (580) 745-2948.

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## **5.5 DINING ACCOMMODATIONS**

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Students or employees that require dining accommodations in relation to a disability or medical diagnosis or treatment should contact the Office of Compliance and Safety to receive Dining Accommodations. The Director will work with Dining Services in determining the appropriate accommodation.

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## **5.6 CAMPUS VISITORS**

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All visitors and guests of the University, volunteer employees, guest speakers and presenters, and athletic attendees with disabilities may contact the Office of Compliance and Safety to request accommodations for their attendance or participation as a guest of the University for all services, programs, and functions open to the public. It is crucial that accommodation requests be made a reasonable time in advance so that accommodations can be put into place by the time of the event.

### University Commencement Ceremonies

Any guest of a graduate that needs an accommodation for the commencement ceremony should have that graduate self-report during commencement ceremony rehearsal. The graduate will need to come prepared with details about the accommodation is being requested. The commencement ceremony is captioned and a sign language interpreter is on site. Devices that assist with hearing the audio can be tested for compatibility at the arena entrance. Please be advised that because of the athletics nature of the commencement ceremony facility, there may be areas in which cords are crossing pathways. Please use caution when at the facility.

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## **5.7 CAPTIONING POLICY**

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Southeastern Oklahoma State University strives to make the University's website accessible to all of its students, staff, and visitors. The website is in compliance with Sections 504 and 508 of the Rehabilitation Act, the Americans with Disabilities Act, and University non-discrimination policies. In compliance with these laws, the Office of Disability Services has adopted a captioning policy to guide faculty, staff, and students on when captioning is appropriate and how to request it.

### External Communications

Technological communication with the general public is guided by Section 504 and 508 of the Rehabilitation Act and Title III of the ADA.

- Section 504 of the Rehabilitation Act provides that “no otherwise qualified individual with a disability... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”
- Section 508 of the Rehabilitation Act requires that “when developing, procuring, maintaining, or using electronic and information technology,” federal agencies shall ensure that individuals with disabilities, whether employees or members of the public, have access to and use of information and data that is comparable to the access to and use of the information and data by members of the public who are not individuals with disabilities, unless it imposes an undue burden.
- Title III of the ADA prohibits discrimination by a public accommodation. Title III provides that “no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation.” This includes undergraduate schools, postgraduate private schools, or other places of education.

Any media posted to the Southeastern Oklahoma State University webpage that is intended to reach the general public must have be captioned in order to provide individuals with disabilities access to the use of information and data comparable to those without disabilities. Captioning any data used to publicize, promote, or explain the University and its departments and/or services is required in order to ensure individuals with disabilities are guaranteed the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the University. Media will not need to be captioned where the audio text is already incorporated into the visual media. For information on how to caption your media, please see the Center for Instructional Development and Technology.

### Internal Communications

Captioning in the classroom or the employment environment is considered an accommodation under the ADA, and all accommodation requests for captioning should be made through the Office of Compliance and Safety. Captioning is not required for media that is used in a course restricted to an audience that is known not to include students that need captioning. For help captioning your course material, please contact the Center for Instructional Development and Technology.

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## **5.8 SERVICE AND ASSISTANCE ANIMAL POLICY**

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Southeastern is welcoming of individuals with disabilities who use service or assistance animals because of a disability. Southeastern is also mindful of the health and safety concerns of other campus patrons, and must balance the needs of the individual with the disability and the impact of such animals on other campus patrons. In regard to permitting service and assistance animals, Southeastern Oklahoma State

University complies with state and federal laws regarding individuals with disabilities.<sup>9</sup> The University does not generally permit animals in campus buildings except as this policy accommodates.<sup>10</sup> The Office of Compliance and Safety is responsible for implementing and assisting students and faculty members with disabilities regarding this policy.

### SERVICE ANIMALS

Only dogs and miniature horses may be service animals. A service animal is an animal that has been trained to perform specific work or tasks for a person with a disability.<sup>11</sup> The mere provision of emotional support by the animal's presence does not make an animal a service animal. Common service animal training might include guiding people who are blind or deaf, notifying a person of an imminent seizure, intentionally pawing or nuzzling a person with Post Traumatic Stress Disorder to calm anxiety, reminding a person to take medication, or intentionally applying calming pressure to a person prone to anxiety or panic attacks.

Service animals are permitted everywhere on campus that the animal may reasonably accompany a person with a disability. This includes University transportation, classrooms, offices, residence halls, lounges, and common areas. The University may on a case by case basis exclude the animal from laboratories or other areas where the presence of the animal may cause an unavoidable hazard, health risk, or where the animal's presence would fundamentally interfere with the service or instruction provided.

When it is not obvious what service an animal provides, University staff may make limited inquiries. Staff may ask only two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. However, when this two-part inquiry provides reasonable basis to conclude that the animal might not be a service animal as defined by the ADA reasonable documentation and/or demonstration of the animal's training may be requested.

The University will not require individuals with service animals to receive permission to have their animal with them on campus, nor will there be any pre-clearance requirement for the presence of the animal on campus. However, students may wish to **voluntarily** notify the Office of Compliance and Safety prior to the first day of class in order to send notifications to professors, make any necessary alterations to classrooms, and to discuss any accommodations that may be necessary for their disability. Students wishing to live on campus with their service animal will have additional documentation to

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<sup>9</sup> Department of Justice, *Guidance on Service Animals*: [http://www.ada.gov/service\\_animals\\_2010.htm](http://www.ada.gov/service_animals_2010.htm); The ADA Amendments Act: <http://www.ada.gov/pubs/adastatute08.htm>; HUD Memo on Service and Assistance Animals in Housing: [http://portal.hud.gov/hudportal/documents/huddoc?id=servanimals\\_ntcfheo2013-01.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf).

<sup>10</sup> Unless the animal is present for the purpose of academic instruction, University services, or University-hosted programs.

<sup>11</sup> Including a physical, sensory, psychiatric, intellectual, cognitive, medical, or other mental disability.

provide to the Office of Compliance and Safety and must notify Housing and Residence Life prior to the housing deadline. See *Responsibilities of the Service Animal Owner below*.

Students with service animals shall never be segregated from the general population of students or campus visitors. The University will not charge a surcharge for a deposit for having a service animal in campus housing, but reserves the ability to make appropriate assessments of charges to the owner for any damage or cleaning costs for which the animal is responsible. Additionally, room costs will not be discounted for students wishing to request larger housing to allow more space for their service animal. Students are encouraged to consider the amount of space their service animal may need when determining whether they would like to live in campus housing. The maximum **recommended** size for service animals is 50-60 pounds. Students who wish to tour campus housing prior to making this decision may contact the office of admissions.

Responsibilities of the Service Animal Owner:

- Service animals must be kept near the person with a disability and not be permitted to run free.
- Service animals must be compliant with applicable vaccination laws. Students, faculty, and staff who intend, in conformance to this policy, to have an animal with them in campus buildings on a regular basis shall submit to the Office of Compliance and Safety a copy of the animal's vaccination history from a Veterinarian or other authorized person to verify compliance with local ordinances.<sup>12</sup> This vaccination history shall be submitted at the beginning of each academic year or upon update of the service animal's vaccinations, whichever comes first.
- Students intending on having a service animal in campus housing must provide notice of this intent prior to the housing application deadline for the applicable semester so that appropriate planning and arrangements can be made, and so that proper notice can be provided to potential roommates and suitemates.
- The animal must be clearly labeled as a service animal or assistance animal and restrained with a harness, leash, or tether of some kind unless the nature of the disability and the animal's training precludes such physical restriction. If this is the case, the animal must be reliably controlled by voice or a substitute method of restriction.
  - *Oklahoma Law requires that a dog used by a deaf or hard-of-hearing person wear an orange identifying collar.*<sup>13</sup>
- The animal's excrement or other refuse must be disposed of by the owner in a prompt and hygienic manner.

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<sup>12</sup> Applicable ordinances for the City of Durant are § 96.025 and § 96.040 of the Durant Municipal Code.

<sup>13</sup> 7 Okl. St. § 19.1(c)

- Owners are expected to control the volume of their animal and quell any unreasonable loudness or excitableness.
- Animals may not under any circumstances be permitted to jump on, lick, nudge, growl at, or otherwise engage another member of the campus community.
- Animals must be properly cared for, fed, and be maintained in reasonable health with due diligence. The University will not be responsible for cleaning up after an animal, feeding an animal, or watching the animal for any amount of time under any circumstance.

#### Service-Animals-In-Training:

Service animals in training are not considered service animals under the ADA. The dog must already be trained before it is considered a service animal. However, they may be permitted upon approval if registered as a service-animal-in-training through the Office of Compliance and Safety.

#### ASSISTANCE ANIMALS

Assistance Animals are not service animals.<sup>14</sup> Assistance animals provide emotional support that alleviates the symptoms or effects of a person's disability, but might not be specifically trained to perform any task or function, or otherwise meet the limited definition of a Service Animal.

##### *Part I: Title I of the ADA – University Employees:*

For employees of the University, an Assistance Animal may qualify as a reasonable accommodation under Title I of the ADA if it is necessary to enable the employee to perform the essential functions of the employee's position and would not cause undue hardship to the University. Employee requests to have assistance animals on campus will be determined on a case-by-case basis by the Office of Compliance and Safety. The employee or a representative of the employee will need to contact the Office of Compliance and Safety to make the request. When necessary, the Director of Compliance and Safety may request reasonable documentation that establishes that the employee has an ADA disability and that the disability necessitates a reasonable accommodation and may require that the documentation comes from an appropriate health care or rehabilitation professional.

##### *Part II: Title II of the ADA – Students:*

The University permits Assistance Animals only within residential facilities and outdoors, and not within the remainder of the campus buildings. An individual may keep an assistance animal in a residence hall if (1) the individual has a disability,(2) the animal is necessary to permit that individual to use and find comfort in their residential space, and (3) if there is an actual relationship between the disability and the

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<sup>14</sup> Assistance animals are also sometimes called comfort animals, therapy animals, or emotional support animals.



assistance or emotional support that the animal provides to the person. Certain wild animals or animals prone to community health or safety risk, which cannot perform the role of assistance animal in a reasonable manner may not be permitted. Assistance animals are considered an accommodation, and all accommodation requests for the possession of assistance animals should be made through the Office of Compliance and Safety. Certain wild animals or animals prone to community health or safety risk, which cannot perform the role of assistance animal in a reasonable manner may not be permitted.

The University will not charge a surcharge for a deposit for having an assistance animal in campus housing, but reserves the ability to make appropriate assessments of charges to the owner for any damage or cleaning costs for which the animal is responsible. Additionally, room costs will not be discounted for students wishing to request larger housing to allow more space for their assistance animal. Students are encouraged to consider the amount of space their service animal may need when determining whether they would like to live in campus housing. Students who wish to tour campus housing prior to making this decision may contact the office of admissions.

#### Responsibilities of the Assistance Animal Owner:

- Assistance animals are required to be contained within the privately assigned residential area. When outside of housing, they must be in a carrier or controlled by a leash.
- Assistance animals must be compliant with applicable vaccination laws. Students, faculty, and staff who intend, in conformance to this policy, to have an animal with them in campus buildings on a regular basis shall submit to the Office of Compliance and Safety a copy of the animal's vaccination history from a Veterinarian or other authorized person to verify compliance with local ordinances.<sup>15</sup> Assistance Animals other than dogs and cats must have an annual clean bill of health from a licensed veterinarian.<sup>16</sup> The vaccination history or annual clean bill of health must be submitted at the beginning of each academic year or upon update of the animal's vaccinations, whichever comes first.
- Students intending on having an assistance animal in campus housing must provide notice of this intent prior to the housing application deadline for the applicable semester so that appropriate planning and arrangements can be made, and so that proper notice can be provided to potential roommates and suitemates.
- The animal's excrement or other refuse must be disposed of by the owner in a prompt and hygienic manner.
- Owners are expected to control the volume of their animal and quell any unreasonable loudness or excitableness.

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<sup>15</sup> Applicable ordinances for the City of Durant are § 96.025 and § 96.040 of the Durant Municipal Code.

<sup>16</sup> This may include a vaccination certificate or a veterinarian's statement regarding the animal's health.

- Animals may not under any circumstances be permitted to jump on, lick, nudge, growl at, or otherwise engage another member of the campus community.
- Animals must be properly cared for, fed, and be maintained in reasonable health with due diligence. The University will not be responsible for cleaning up after an animal, feeding an animal, or watching the animal for any amount of time under any circumstance.
- Assistance animals must be kept in a kennel, crate, or some form of cage like apparatus when students are not in campus housing. This prevents the escape of or danger to the assistance animal.
- Assistance animals are not to be kept in campus housing during any period of time in which the student is leaving for a prolonged period of time. (For example, if the student leaves town for the weekend or a holiday break, the animal is to accompany the student).
  - *Roommates are not responsible for the care of any assistance animals.*
- Students are encouraged to have a plan for their assistance animals in case of emergency.
- A reasonable accommodation that allows the student an exception to the University's animal policy does not constitute an exception to any other policy. The student must abide by all other residential policies.

EXCEPTIONS TO PERMITTING SERVICE AND ASSISTANCE ANIMALS ON CAMPUS:

The University may ask an individual to remove a service or assistance animal from a campus building or from University property if:

- The animal is disruptive to instruction, services, or the use of facilities.
- The animal poses a health or safety risk, or a direct threat to other campus patrons.
- The animal does not have acceptable hygiene or is not housebroken.
- The animal is not kept under control.
- The animal is no longer performing a role of disability related service or assistance.
- The presence of the animal would fundamentally alter the nature of a program or activity.
- The animal's owner does not clean up after the animal.
- The University reasonably concludes that the animal is not a service or assistance animal.
- The owner does not comply with any other element of this policy.

Please note that if an individual is asked to remove the animal from a campus building or University property permanently, the process will be handled through the University's student conduct procedure and in consultation with the Office of Compliance and Safety

#### STUDENTS WITH CONFLICTING DISABILITIES OR HEALTH CONDITIONS

Students with medical conditions that are affected by animals are asked to contact the Office of Compliance and Safety if they have a health or safety related concern about exposure to a service or assistance animal. The individual will be asked to provide medical documentation that identifies the medical condition. This will allow the Office of Compliance and Safety to determine whether accommodation is a necessity.

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#### **5.9 DISABILITY GRIEVANCES**

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Students, faculty, or staff who have a grievance relevant to disability related discrimination or harassment, or other disability rights may use the grievance procedure outlined in parts one and two of this Civil Rights & Title IX Policy. For grievances related to appropriate accommodation, accommodation approval or delay, or the service and assistance animal policy, the individual should attempt to correct the alleged violation through the Office of Compliance and Safety. If unable to resolve the problem there, the individual may file a formal grievance in accordance with this policy. In the event that the Director of Compliance and Safety has a conflict of interest in such a case, a Deputy Title IX Coordinator shall fulfill the Coordinator's functions as the grievance is handled, including on appeals.

## PART SIX

# TRANSGENDER INCLUSION

Southeastern is committed to ensuring an inclusive campus community for all students, faculty, staff, and visitors. This includes freedom from discrimination and harassment based on gender identity or transgender status. The University will not exclude, separate, or deny benefits to, or otherwise treat differently on the basis of sex, any person in its educational programs or activities unless expressly authorized to do so under Title IX or its implementing regulations.

**Gender Identity:** An individual's internal sense of gender. A person's gender identity may be different from or the same as a person's sex assigned at birth.

**Transgender:** Describes those individuals whose gender identity is different from the sex they were assigned at birth.

**Gender Transition:** The process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth. During gender transition individuals begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives, and gender transition can happen swiftly or over a long duration of time.

When the University is notified that a student or employee will begin to assert a gender identity that differs from previous representations or records, the school will begin treating the student consistent with that student's gender identity. There is no medical diagnosis or treatment requirement that students must meet as a prerequisite to being treated consistent with their gender identity.

### **Third Party Harassment:**

Southeastern will not tolerate harassment that targets an individual based on gender identity or transgender status. If such sex-based harassment creates a hostile environment, the University will take action to end the harassment, prevent its recurrence, and remedy its effects.

### **Identification and records:**

All students, employees, and contractors of Southeastern are expected to treat individuals consistent with their gender identity even if their education or employment records indicate a different sex. This includes an expectation to use the appropriately gendered pronouns, prefixes, or abbreviations when referring to an individual either directly or indirectly.

Southeastern will entertain requests to amend educational records to make them consistent with the student or employee's gender identity. Unless an individual's name and/or gender are changed by law, not all documents may be able to be amended.

**Facilities, including Housing:**

Gender-segregated facilities, including restrooms, locker rooms, housing, and hotel room assignments on University sponsored trips must permit access consistent with an individual's gender identity.

**Fraternities and Sororities:**

Title IX, and the requirements of this University policy, do not apply to the membership practices of social fraternities and sororities. Such organizations are exempt, and may have their own policies in regard to sex and gender identity.

**Athletics:**

Southeastern enforces equal opportunity for transgender student athletes. To the extent any of this policy conflicts with current NCAA Division II rules, the official NCAA Division II rules will be the controlling policy as applied to student athletes at Southeastern.

A transgender student athlete should be allowed to participate in any sports activity so long as that athlete's use of hormone therapy, if any, is consistent with the National College Athletic Association (NCAA) existing policies on banned medications. Specifically, a transgender student athlete should be allowed to participate in sex-separated sports activities under the following conditions:

**Transgender student athletes who are undergoing hormone treatment**

1. A male-to-female (MTF) transgender student athlete who is taking medically prescribed hormone treatment related to gender transition may participate on a men's team at any time, but must complete one year of hormone treatment related to gender transition before competing on a women's team.
2. A female-to-male (FTM) transgender student athlete who is taking medically prescribed testosterone related to gender transition may not participate on a women's team after beginning hormone treatment.
3. A female-to-male (FTM) transgender student athlete who is taking medically prescribed testosterone for the purposes of gender transition may compete on a men's team with an NCAA approved medical exception.
4. In any case where a student athlete is taking hormone treatment related to gender transition, the use of an anabolic agent or peptide hormone must be approved by the NCAA before the student-athlete is allowed to participate in competition while taking these medications. The NCAA recognizes that some banned substances are used for legitimate medical purposes. Accordingly, the NCAA allows exception to be made for those student-athletes with a documented medical history demonstrating the need for regular use of such a drug. The institution, through its director of athletics, may request (to the NCAA) an exception for use of an anabolic agent or peptide hormone by submitting to the NCAA medical documentation from the prescribing physician supporting the diagnosis and treatment.

**Transgender student athletes who are NOT undergoing hormone treatment**

1. Any transgender student athlete who is not taking hormone treatment related to gender transition may participate in sex-separated sports activities in accordance with his or her assigned birth gender.
2. A female-to-male transgender student athlete who is not taking testosterone related to gender transition may participate on a men's or women's team.
3. A male-to-female transgender student athlete who is not taking hormone treatments related to gender transition may not compete on a women's team.

### **Participation in Mixed Gender Sport Activities**

A mixed team has both female and male participants and may be restricted in championship play according to specific national governing body rules.

### **Transgender student athletes who are undergoing hormone treatment**

1. For purposes of mixed gender team classification, a male-to-female (MTF) transgender student athlete who is taking medically prescribed hormone treatment related to gender transition shall be counted as a male participant until the athlete has completed one year of hormone treatment at which time the athlete shall be counted as a female participant.
2. For purposes of mixed gender team classification, a female-to-male (FTM) transgender student athlete who is taking medically prescribed testosterone related to gender transition shall be counted as a male participant and must request a medical exception from the NCAA prior to competing because testosterone is a banned substance.

### **Transgender student athletes who are NOT undergoing hormone treatment**

1. For purposes of mixed gender team classification, a female-to-male (FTM) transgender student athlete who is not taking testosterone related to gender transition may be counted as either a male or female.
2. For purposes of mixed gender team classification, a female-to-male (FTM) transgender student athlete who is not taking testosterone related to gender transition participating on a women's team shall not make that team a mixed gender team.
3. For purposes of mixed gender team classification, a male-to-female (MTF) transgender student athlete who is not taking hormone treatment related to gender transition shall count as a male.

### **The student's responsibility**

1. In order to avoid challenges to a transgender student's participation during a sport season, a student athlete who has completed, plans to initiate, or is in the process of taking hormones as part of a gender transition shall submit the request to participate on a sports team in writing to the athletic director upon matriculation or when the decision to undergo hormonal treatment is made.\*

2. The student shall submit her or his request to the athletic director. The request shall include a letter from the student's physician documenting the student athlete's intention to transition or the student's transition status if the process has already been initiated. This letter shall identify the prescribed hormonal treatment for the student's gender transition and documentation of the student's testosterone levels, if relevant.

\* The student is encouraged to meet with someone who can offer support and advice through the process, if desired. Should the student want help in finding such a person, a list of people who might serve in that role is available from the Athletic Director, the Title IX Coordinator, and the Office of the Dean of Students.

### **Disputation**

If at any point the athletics section of this Transgender Inclusion Policy is disputed, the Athletics Compliance Officer shall notify the Director of Compliance and Safety. The Civil Rights and Title IX Policy and Procedure will govern the dispute. For parts of this policy that relate to athletics, no part of this policy is intended to conflict with NCAA policies and/or rules for member institutions, and to the extent any such conflict exists, the University will defer to NCAA regulations and interpretations of such regulations.

### **Policies for Intramural Sports**

People participating in any intramural sports or other athletic programs, such as physical education courses, may participate in accordance with their gender identity, should that be relevant, regardless of any medical treatment.

### **Locker Rooms.**

Anyone using sports facilities on campus—whether SE athletes, visiting athletes, or other participants and attendants—shall have access to the changing, shower, and toilet facilities that accord with their gender identity. Private facilities will be made available if asked for but transgender people will not be required to use them.

### **Accommodations for travel.**

When possible, athletes traveling to other schools should be assigned accommodations based on their gender identity, with more privacy provided, if possible, when requested.

### **Names and Pronouns.**

Teammates, coaches, and other participants in sports shall refer to people by their preferred names and pronouns.

### **Dress Codes and Uniforms**

Dress codes should enable all athletes and other sports participants to dress in accord with their gender identity. For example, instead of requiring gendered forms of “dressy,” such as a skirt or dress, dress codes should require students to dress with appropriate formality in ways that suit their gender identity. Since both transgender and cisgender athletes may have preferred gender expressions that do not conform to traditional norms of dress—for instance, not all women feel comfortable in a skirt—this policy should be understood to apply to all athletes. Uniforms, too, ideally, should not conflict with an athlete’s gender identity.

### **Education**

Athletes, coaches, trainers, and other people involved in SE Athletics should be educated about trans identities and the principles of transgender inclusion. They should be knowledgeable about how, in their particular roles, to support trans people, and prepared to put this knowledge to use.

**At schools or venues where or against which SE athletes compete.** Without naming or violating the privacy of transgender athletes or personnel in question, relevant authorities and personnel at those venues should be informed about expectations for the treatment of transgender athletes—including accommodation, pronoun, and name use—during and outside of play



RECORD COPY

This policy takes full effect on May 10<sup>th</sup>, 2017 and shall be distributed online and as an appendix in all Student, Employee, and Faculty handbooks.

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**Sean Burrage, President**  
Southeastern Oklahoma State University

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**Date**

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**Michael J. Davis, Director of Compliance & Safety**  
Southeastern Oklahoma State University

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**Date**