

Policy Created 5/10/2017; Modified 3/8/2018; Modified 8/14/2020. Modified 10/16/2020.



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## **Civil Rights Policy for the Campus Community**

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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, harassment, and retaliation. **The procedure outlined in this policy specifically covers all civil rights except for Title IX and other gender-based misconduct 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. Parts 3, 4, and 6 of this policy include guidance and information about remedies for all civil rights matters, including Title IX and gender based misconduct. For the full Title IX and gender-based misconduct policy please consult the Regional University System of Oklahoma Title IX Policy.

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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In accordance with state and federal laws, the University will not discriminate in any employment practice, education program, education activity, or admissions on the basis of race, color, religion, national origin, age, sex, sexual orientation, gender identity, or veteran status. The following individual has been designated to handle inquiries regarding nondiscrimination policies:

**Michael J. Davis**

Special Assistant to the President for Compliance

425 W. University Blvd, Durant, OK, 74701

Russell Bldg Rm. 303

mdavis@se.edu / (580) 745-3090

Title IX of the Education Amendments of 1972 protects people from sex discrimination in educational programs and activities at institutions that receive federal assistance. The following individual has been designated to handle inquiries regarding Title IX:

**Michael J. Davis**

Special Assistant to the President for Compliance

425 W. University Blvd, Durant, OK, 74701

Russell Bldg Rm. 303

mdavis@se.edu / (580) 745-3090

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### **PRIMARY AUTHORITY**

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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### **POLICY APPROVAL**

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
Policy <i>Revisions</i> Enacted:	March 8, 2018
Policy <i>Revisions</i> Enacted after new Title IX Regulations:	August 14, 2020
Policy <i>Revisions</i> Enacted after implementation of RUSO Title IX Policy:	October 16, 2020

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### **PRIMARY CONTACT : COORDINATOR FOR THE CIVIL RIGHTS POLICY**

Michael Davis, J.D.  
Special Assistant to the President for Compliance  
Title IX Coordinator and Equal Employment Opportunity Officer  
Russell Building, Rm. 303  
425 West University Blvd. Durant, OK  
Phone: 580-745-3090  
Email: [mdavis@se.edu](mailto:mdavis@se.edu)

## PART ONE OVERVIEW

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### **1.1 PRESERVATION OF ACADEMIC FREEDOM AND INTELLECTUAL INQUIRY**

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The definition of discriminatory misconduct, including harassment and retaliation, 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. The exercise of protected speech does not violate this policy.

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### **PROHIBITED ACTS**

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<b>1.2.A Discrimination</b>	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, genetic information, religion, national origin, sex, age, disability, sexual orientation, gender identity, or status as a veteran. Any act or omission that meets the criteria outlined by statute or caselaw for any civil rights law applicable to the University including the laws cited in this policy <u>with the exception of Title IX and Title VII gender-based discrimination, harassment, and retaliation, which is governed by a separate policy.</u>
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<b>1.2.B Harassment</b>	Any act, statement, or combination of acts and/or statements, on account of race, color, religion, genetic information, national origin, age, disability, 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.
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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 necessarily have to include intent to harm, be directed at a specific target, or involve repeated incidents.<sup>1</sup>

**1.2.C 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.D Retaliation** Any attempt to penalize or retaliate against a person for filing a complaint or participating in the investigation of a complaint of discrimination, retaliation, or harassment, 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 who has participated or is participating in an investigation or this process is taken seriously and is prohibited both by this policy and by law.

The protections against retaliation are critical to reducing discrimination within the University community. Retaliation against anyone who has reported an incident of discrimination, harassment, or retaliation, 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.E 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

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

witnesses. This also includes the failure to comply with sanctions properly imposed through the conduct process.

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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 Clery Act law. This is achieved through the use of the *Safe Colleges* modules for students and employees and ongoing training and awareness programs conducted by University.

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### **1.4 DESIGNATION OF AND REQUIREMENTS FOR RESPONSIBLE EMPLOYEES**

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All instances of discrimination, harassment, and retaliation should be properly reported to the Coordinator or any person in their direct chain of command at Southeastern, any supervisor, or to the RUSO Board. Such instances may also be reported to external agencies. Any supervisor who witnesses or becomes aware of conduct that she or he reasonably believes may be discriminatory or retaliatory must promptly report the conduct to the Coordinator, even if the supervisor has not received a complaint. Such reports shall take place promptly.

Southeastern has designated all employees except health care providers and clinical counselors in the Wellness Center as mandatory reporters of discrimination which means that if any instance of discrimination, harassment, or retaliation is reported to a University employee, then that employee should immediately report the incident or situation to the 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.

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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 in compliance with the RUSO Title IX Policy. 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 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 discrimination and harassment that include crimes such as physical abuse, and vandalism. 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.

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 Coordinator, any person in their direct chain of command at Southeastern, or the RUSO Board, 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 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 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: Title IX Coordinator; 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:

Michael J. Davis, EEO>Title IX Coordinator  
Russell Bldg. Rm 303  
580-745-3090  
[mdavis@se.edu](mailto:mdavis@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).

#### **2.1.E External Reporting**

Employees may make Title VII discrimination and/or retaliation complaints to an appropriate agency external to RUSO or Southeastern, such as the following:

U.S. Equal Employment Opportunity Commission (“EEOC”)

Phone: 1-800-669-4000

Email: [info@eeoc.gov](mailto:info@eeoc.gov)

U.S. Department of Justice Civil Rights Division

Phone: (202) 514-4609

TTY Phone: (202) 514-0716

Oklahoma Office of Civil Rights Enforcement (OCRE)

Phone: (405) 521-3921

**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 Coordinator. Employees may additionally may report such grievances to any person in their direct chain of command at Southeastern, and to the RUSO board directly using the EthicsPoint reporting system. Grievances must be reduced to writing if they not already in writing. Grievances may be submitted in writing using the *Civil Rights Grievance Form*, using the *Maxient* incident reporting platform, or by mail, electronic email, or submission of a hand delivered letter to the Coordinator. Where the complaint is made orally initially, the University and/or the Coordinator will direct the complainant to submit a written complaint and to specify whether they wish the University to perform an investigation. Individuals can be assisted by the Coordinator in reducing their complaint to written format if requested. The complainant shall make any necessary corrections to the written version of their complaint and shall sign and date the final draft of the written version. An investigation into discrimination, harassment, or retaliation may be initiated regardless of whether a formal grievance has been filed or not if a written complaint is drafted and signed by the Coordinator. The 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 conducting the investigation shall not have a conflict of interest or bias for the complainant or respondent. 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. Good cause for delay or extension include considerations such as the absence of a party, a party's advisor, a witness, concurrent law enforcement activity, or accommodation requirements.

When the Coordinator receives information that reasonably supports allegations that discrimination and/or retaliation may have occurred but the putative victim(s) have not filed a grievance, the Coordinator will communicate with the potential aggrieved individual in order to determine whether the individual wishes an investigation to be conducted. During this contact the Coordinator will discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive

measures, inform the complainant of the availability of supportive measures with or without the filing of a formal grievance, and explain to the complainant the process for filing a formal grievance.

The Coordinator will then decide, whether to initiate an investigation, and reserves the ability to initiate an investigation even if the victim does not want an investigation to be conducted. If, after communication with the potential victims of discrimination, the Coordinator determines to initiate an investigation the notification requirements in Section 2.2D will be followed and written notice of an investigation will be provided.

The respondent is always presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. Even a prophylactic measure such as a properly implemented emergency removal or temporary/interim suspension does not mitigate this presumption.

The University may consolidate formal grievances against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### **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 process is distinct from any criminal investigation and flows from the University's obligation under 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 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 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 allegations 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 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 may be appointed by the Coordinator to conduct an investigation. If the respondent in the grievance is an employee, contractor, or visitor, then the Coordinator or trained designee will investigate.

When the parties are known to the University and an investigation is commenced, the Coordinator or designee will provide written notice to the parties, including reference to the grievance process and policy and details about informal resolution processes. The notice will include a summary of the allegations of discrimination, harassment or retaliation – including the specific policy provision alleged to have been violated, identities of the parties involved and the date and location of the alleged incident or incidents. Supplementary notice will be provided promptly if the investigation expands to include further allegations not provided in the initial notice.

This investigation will include meeting with the complainant(s) and with the respondent(s), meeting with relevant witnesses, and reviewing any relevant evidence including evidence submitted by the parties, 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 to anyone other than their advisee during any meeting, interview or hearing relevant to the investigation, with the exception of cross examination within the hearing setting. If the advisor is an attorney, the party shall notify the 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 including the opportunity to present witnesses including fact and expert witnesses and other inculpatory and exculpatory evidence. The investigator will then create an investigative report that fairly summarizes relevant evidence, including inculpatory and exculpatory evidence and, at least 5 days prior to a hearing, send to each party and the party's advisor, if any, the investigative report in an electronic format, for their review and written response. The written response of any party will be included as an attachment to the investigative report at the hearing.

Under no circumstances, except with voluntary consent, will an individual (including an employee or applicant) be required to discuss the alleged discriminatory and/or retaliatory conduct with the person alleged to have committed the discrimination and/or retaliation. This applies before, during, and after investigation of any grievance.

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

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In appropriate cases the University may choose to pursue agreement-based resolution with the consent of all parties at any point in the investigation process. When an informal agreement-based process is commenced the parties will receive a written notice disclosing the allegations, the requirements of the informal resolution process, information relating to waiver of full investigation and hearing as a result of

the agreement-based process, and the right to withdraw from the informal process and resume the formal process.

Alternative resolution options can include mediation, admission of misconduct, specific action plans, voluntary agreements, or sanctions. Any alternative resolution must be reduced to writing by the Coordinator and be signed or electronically assented to by each party and by the Coordinator. All parties will be notified of the right to end the alternative resolution process at any time and resume the formal process.

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## **2.4 HEARING PROCEDURES**

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If an agreement-based resolution option is inappropriate or if they are declined by the parties or by the University, a hearing will take place if there is still, after investigation, enough reasonable cause on which to hold a hearing. Whether or not a hearing occurs will not-necessarily impede the supportive measures for complainant or respondent mentioned in Section 4.2 of this policy.

When a hearing is scheduled to take place, the University will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

A panel of three Civil Rights and Title IX Committee members will be assembled to hold a live 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. Neither a respondent nor a complainant in a discrimination or retaliation investigation may be one of the decision makers charged with determining whether the respondent discriminated or retaliated against the complainant.

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. No fewer than five days prior to the hearing, the parties shall be provided the investigative report that will be submitted to the hearing panel for review.

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, cross-examination of the parties and witnesses, 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, conduct cross-examination, and generally assist the party in all manner other than speaking for them on their behalf or to the panel on a substantive matter.

Cross-examination is sensitive and must take place in a phased process. Each party's advisor is permitted to ask the other party and any witnesses all *relevant* questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Therefore, upon the oral recitation of each question there will be a brief pause for the panel to consider the relevancy. If any member of the panel believes the question may be non-relevant the panel shall take a vote, and if a majority of the panel agrees the question is non-relevant, then a brief adjournment shall commence so that the panel can draft a written explanation/rationale as to why the question will be excluded. Only after this rationale is read aloud to the room will the next question commence.

If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice, for the limited purpose of asking questions during cross examination. The questions, insofar as a University provided advisor is concerned, shall be limited to questions drafted by the party.

At either party's request, the hearing be arranged with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. The use of technology must enable parties to see and hear each other, and for parties to see other participants including witnesses.

In the hearing, the parties will have equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

Unduly repetitive character witnesses or any other types of witnesses including expert witnesses can be limited at the discretion of the panel.

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

The University will record an audio or audiovisual recording of any live hearing and make it available to the parties for inspection and review.

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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 will be notified within fourteen business days after the hearing.

The written outcome determination will include:

- A reference to the policy provision alleged to have been violated,
- A summary of the allegations,
- Conclusions regarding the application of the Civil Rights Policy to the facts, including whether the respondent is found responsible or not responsible for each discreet allegation.

The University will provide the written determination to the parties simultaneously.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

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## **2.6 APPEAL**

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Appeals shall be on paper, to a three-person panel of the Civil Rights & Title IX Committee who are not the same persons who sat on the initial hearing panel. Any individual who was previously involved in complainant's investigation or hearing in an investigative or decisional capacity may not serve on the appeals panel. The written appeal must include the basis for seeking the appeal and include information to support such basis. Either party may appeal from a finding of responsibility, or a dismissal of a formal grievance or any allegations within the formal grievance. It shall be received by the Coordinator no later than three (3) business 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:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

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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 in a case brought through this policy 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

### VICTIM CARE, PROTECTIVE, AND REMEDIAL MEASURES

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#### **3.2 SUPPORTIVE MEASURES**

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Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Coordinator is responsible for coordinating the effective implementation of supportive measures.

Outside of Title IX (see RUSO Policy for Title IX) supportive measures 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

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 complainant 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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### **3.2 SANCTIONS**

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#### **3.2.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 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. 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.

### **3.2.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.
- **Administrative Leave:** Temporary removal of an employee from performing his/her work duties.
- **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.

### **3.2.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 FOUR

## DISABILITY RIGHTS

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### 4.1 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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### 4.2 REASONABLE ACCOMMODATIONS

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The Office of Disability Services 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 Disability Services 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 Coordinator of Disability Services 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 Disability Services 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 Coordinator of Disability Services 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 Disability Services 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 Coordinator of Disability Services 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 Disability Services 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 Coordinator of Disability Services may request that the student or employee update the office when the accommodation is no longer necessary.

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#### **4.3 DOCUMENTATION**

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Students and employees requesting accommodations through the Office of Disability Services 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 Coordinator of Disability Services.<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 Coordinator of Disability Services 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 Coordinator of Disability Services 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 Disability Services are kept for the duration of that student's 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 Disability Services 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 Disability Services. Students who want to make a formal request to modify their accommodations should do the same.

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## **4.4 HOUSING ACCOMMODATIONS**

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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. Accommodation requests in housing will be made by the Coordinator of Disability Services through the normal interactive accommodation process. Distraction free study areas are

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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.

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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#### **4.5 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 Disability Services to receive Dining Accommodations. The Director will work with Dining Services in determining the appropriate accommodation.

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#### **4.6 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 Disability Services 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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#### **4.7 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 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 Disability Services. 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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#### **4.8 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

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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

does not generally permit animals in campus buildings except as this policy accommodates.<sup>10</sup> The Office of Disability Services 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 Disability Services 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 provide to the Office of Disability Services 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

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#### 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.

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 Disability Services 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.
- 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.

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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)

- 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 Disability Services.

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 Disability Services. The employee or a representative of the employee will need to contact the Office Disability Services to make the request. When necessary, the Coordinator of Disability Services 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 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

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

of Disability Services. 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 Disability Services 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.
- Animals may not under any circumstances be permitted to jump on, lick, nudge, growl at, or otherwise engage another member of the campus community.

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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 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 ASSITANCE 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 Disability Services.

#### **STUDENTS WITH CONFLICTING DISABILITIES OR HEALTH CONDITIONS**

Students with medical conditions that are affected by animals are asked to contact the Office of Disability Services 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 Disability Services to determine whether accommodation is a necessity.

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#### **4.9 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 Disability Services. If unable to resolve the problem there, the individual may file a formal grievance in accordance with this policy.

## PART FIVE

### 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 EEO>Title IX Coordinator. 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 updated version of policy takes effect on October 16<sup>th</sup>, 2020 pursuant to the below signatures.

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**Thomas Newsom, President**  
Southeastern Oklahoma State University

Date

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**Michael J. Davis, Assistant to the President for Compliance**  
Southeastern Oklahoma State University

Date