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Policy Definitions

The following definitions also include possible examples that could violate the policy. For policy language please visit <http://studentconduct.okstate.edu/code> (<http://studentconduct.okstate.edu/code>).

Sexual Harassment

Sexual harassment is making unwelcomed sexual advances, requests for sexual favors and other verbal or physical contact or communication of a sexual nature when:

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

Sexual harassment does not include verbal expressions or written materials that are relevant and appropriately related to course subject matter or curriculum, and this policy shall not abridge academic freedom or the university's educational mission. Sexual harassment can create a hostile environment. Sexual harassment should be reported even if it does not reach the point of creating a hostile environment.

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

Examples of behavior that could be sexual harassment:

- Unwelcomed sexual flirtation, advances or propositions of sexual activities.
- Asking about someone else's personal, social or sexual life or about their sexual fantasies, preferences or history.
- Discussing one's own personal sexual fantasies, preferences or history.
- Repeatedly asking for a date from a person who is not interested.
- Whistles, catcalls or insulting sounds.
- Sexually suggestive jokes or innuendoes, or turning discussions into sexual topics.
- Sexually offensive or degrading language used to describe an individual or remarks of a sexual nature to describe a person's body or clothing.
- Calling a person a "hunk," "doll," "babe," "sugar," "honey" or similar descriptive terms.
- Displaying sexually demeaning or offensive objects and pictures.
- Making sexual gestures with hands or body movements.
- Rating a person's sexuality.
- Unwelcomed touching of a person's body, including massaging a person.

Sexual Violence

Sexual violence is a term that encompasses a number of different acts including sexual harassment, sexual misconduct, stalking, dating violence and domestic violence. Throughout this document, sexual violence will be used as a term to cover all acts previously listed.

Sexual Misconduct

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

- **Unwelcome sexual touching:** Touching an unwilling or non-consensual person's intimate parts (such as genitalia, groin, breast, buttocks, mouth or clothing covering same); touching an unwilling person with one's own intimate parts; or forcing an unwilling person to touch another's intimate parts.
- **Exposure:** Engaging in indecent exposure, sexual acts in a public place, voyeurism or non-consensual sharing of sexually explicit images.
- **Non-consensual sexual assault:** Penetrating any bodily opening of an unwilling or non-consensual person with any object or body part.
- **Forced sexual assault:** Penetrating any bodily opening of an unwilling or non-consensual person with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another's mental or physical condition (such as lack of consciousness, incapacitation due to ingestion of drugs or alcohol, age or mental disability) of which the respondent was aware or should have been aware.

Effective Consent is:

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

Further:

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

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

Examples of sexual misconduct violations:

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

Stalking

Stalking refers to one who engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

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

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

Stalking actions are those that a stalker takes to contact, harass, track or frighten another that could include one or more than one of the following repeatedly:

- following;
- making unsolicited visits or communication;
- using online social media inappropriately;
- damaging property;
- showing up at places an intended victim frequents;
- sending unsolicited mail, e-mail, texts and pictures;
- creating a website about a target of stalking;
- sending unsolicited gifts;
- stealing things that belong to intended victim;
- calling or texting.

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

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

Dating Violence

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

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

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Dating violence does not include acts that meet the definition of domestic violence.

Definition consistent with Violence Against Women Act Volume 79 CFR.

Domestic Violence

Domestic violence is a crime of violence committed by a:

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

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

Definition consistent with Violence Against Women Act Volume 79 CFR.

Retaliation

The university will not tolerate retaliation against a person who, in good faith, brings a complaint forward. Retaliation against an individual who has brought a complaint forward or against an individual who has participated in an investigation or conduct process is prohibited. See Board of Regents for the Oklahoma Agricultural and Mechanical Colleges Policy Manual, 3.11 Non-Retaliation for more information.

Oklahoma State Statutes

The following are the definitions as described in Oklahoma State Statutes and not necessarily the definition the university has for these terms.

These definitions can be found in the Protection from Domestic Abuse Act and in the Domestic Abuse Reporting Act.

- **Assault:** Assault is any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.
- **Domestic Abuse/Violence:** Any act of physical harm, or threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members or who are or were in a dating relationships. (§22-60.1/§43-107.1)
 - “Family of household members” means:
 - spouses,
 - ex-spouses,
 - present spouses of ex-spouses,
 - parents, including grandparents, stepparents, adoptive parents and foster parents,
 - children, including grandchildren, stepchildren, adoptive children and foster children,
 - persons otherwise related by blood or marriage,
 - persons living in the same household or who formerly lived in the same household, and
 - persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped
 - “Dating relationship” means a courtship or engagement relationship. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship.
- **Harassment:** A knowingly and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. “Harassment” shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes and fear of death or bodily harm
 - “Family of household members” means:
 - spouses,
 - ex-spouses,
 - present spouses of ex-spouses,
 - parents, including grandparents, stepparents, adoptive parents and foster parents,
 - children, including grandchildren, stepchildren, adoptive children and foster children,
 - persons otherwise related by blood or marriage,
 - persons living in the same household or who formerly lived in the same household, and
 - persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped
 - “Dating relationship” means a courtship or engagement relationship. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship.
- **Stalking:** The willful, malicious, and repeated following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued. Unconsented contact or course of conduct includes, but is not limited to:
 - following or appearing within the sight of that individual,
 - approaching or confronting that individual in a public place or on private property,

- appearing at the workplace or residence of that individual,
 - entering onto or remaining on property owned, leased, or occupied by that individual,
 - contacting that individual by telephone,
 - sending mail or electronic communications to that individual, or
 - placing an object on, or delivering an object to, property owned, leased or occupied by that individual
- **Rape** is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:
 - Where the victim is under sixteen (16) years of age;
 - Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
 - Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
 - Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;
 - Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;
 - Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;
 - Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim; or
 - Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of the same school system.

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