

OSU INSTITUTE OF TECHNOLOGY
POLICY & PROCEDURES

**Sexual Misconduct, Including Sexual Assault and
Sexual Harassment**

**4-006
STUDENT SERVICES
June 2014**

POLICY

- 1.01 Sexual misconduct includes, but is not limited to, unwelcome sexual contact or acts which involves intimidation, coercion, the implied use or threatened use of force, use of intoxicants to substantially impair the victim's ability to give effective consent, engaging in such acts when there is reasonable cause to believe the other person is in a mental state which renders him/her incapable of understanding the nature of the contact, or where the victim is a minor; indecent exposure; and voyeurism.
- 1.02 OSU Institute of Technology (OSUIT) encourages victims to report instances of sexual harassment prohibited by Title IX including, but not limited to, sexual assault or other sex offenses, either forcible or non-forcible in nature. In addition to internal grievance procedures, victims of sexual assault or harassment are encouraged to file complaints or reports with campus police or local law enforcement agencies as soon as possible after the offense occurs in order to preserve evidence necessary to the proof of criminal offenses.

The OSUIT Police Department is available to assist victims in filing reports with other law enforcement agencies. The university will neither tolerate nor condone any form of sexual misconduct, whether physical, mental, or emotional in nature. This includes actions that are demeaning and includes, but is not limited to, rape (whether the victim does or does not know the aggressor, and includes "date rape," "acquaintance rape," and "gang rape"), sexual assault or sexual harassment. Where there is probable cause to believe that the university's policies prohibiting sexual misconduct have been violated, OSUIT will pursue strong disciplinary action through its own student conduct system. Even if law enforcement and criminal justice authorities choose not to prosecute a particular matter, the university may still pursue the matter as a student misconduct issue warranting non-academic disciplinary action by the university. Where it is determined that sexual misconduct is more likely than not to have occurred, university disciplinary sanctions can include suspension or expulsion.

- 1.03 Definitions: Due to the sensitive and often violent nature of incidents involving sexual misconduct, the following definitions are provided for informational use by students and for guidance in the investigation and adjudication of alleged cases of sexual misconduct. It is possible that a particular action may constitute sexual misconduct even if not specifically mentioned in these examples:
- A. Sexual assault is any involuntary sexual act in which a person is threatened, coerced, or forced to engage against their will.

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- B. "Rape" means all acts of sexual intercourse involving vaginal or anal penetration accomplished without consent and with a male or female (who may be of the same or opposite sex as the perpetrator).
- C. "Rape by instrumentation" means an act in which any inanimate object or any part of the human body, not amounting to sexual intercourse, is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person.
- D. "Sexual battery" shall mean the intentional touching mauling or feeling of the body or private parts of any person in a lewd and lascivious matter and without the consent of that person. "Sexual battery" includes, but is not limited to, the touching of a person's genitalia, buttocks, or breasts.
- E. "Consent" means the positive cooperation in act or attitude pursuant to an exercise of free will. The person(s) consenting must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. The determination regarding the presence or absence of consent shall be based upon the totality of the circumstances present in a particular case, including the context in which the alleged incidents occurred. Consent will not be implied from silence or passivity alone.
- F. "Lack of consent" means:
1. the victim has not given consent; or
 2. the victim is incapable of giving consent because of mental, developmental, or physical disability, or lack of legal age or giving legal consent; or
 3. force of violence is used or threatened, accompanied by apparent power of execution to the victim or to another person; or
 4. the victim is incapable of resisting or giving consent as a result of being intoxicated by alcohol, beer, or being under the influence of drugs; or
 5. the victim is at the time unconscious of the nature of the act.
- G. "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature when:
1. submission to such conduct is made explicitly or implicitly a term or condition of leadership, membership in an organization, student social events, academic standing, or participation in an university activity; or
 2. submission to or rejection of such conduct by an individual is used as a basis for evaluation, particularly in making employment or academic decisions affecting the individual; or

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3. such conduct has the purpose or effect of unreasonably interfering with the other individual's performance or creating an intimidating, hostile, or offensive educational and university environment.
- H. It is not possible to exhaustively list all examples of conduct which can constitute sexual harassment. The following list of examples of conduct prohibited by this policy statement is intended to aid in the understanding of this area.

Conduct prohibited by this policy statement may include, but is not limited to:

1. Verbal Conduct

Unwelcome sexual flirtation, advances or propositions for sexual activity. Asking about someone else's personal social or sexual life or about their sexual fantasies, preferences, or history may constitute sexual harassment. Discussing your own personal sexual fantasies, preferences, or history or repeatedly asking for a date from a person who is not interested may also constitute sexual harassment.

Continued or repeated verbal abuse of a sexual nature. Suggestive comments and sexually explicit jokes, or turning discussions at work or in the academic classroom to sexual topics may constitute sexual harassment. Making offensive sounds such as smacking or licking lips, making kissing sounds, or "wolf whistles" may constitute sexual harassment.

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," or "honey," or similar descriptive terms may constitute sexual harassment if the person being so described is offended by such terms or if others hearing the references are offended.

Stating, indicating, or implying in any manner that benefits will be gained or lost based on response to sexual advances.

2. Non-Verbal

Displaying sexually demeaning or offensive objects and pictures. Nude or semi-nude photographs and drawings, or computer software is very likely to be viewed as sexual harassment.

Staring repeatedly at someone, blocking another person's path or otherwise restricting their movements. Such acts, particularly when in conjunction with other acts or comments, may be viewed as sexual harassment. Invading a person's personal body space, such as by standing closer than appropriate or necessary for the work being done may similarly constitute sexual harassment.

Bringing physical items to work which express sexually offensive comments regarding men or women. Messages of this nature such as might be contained on coffee mugs, hats, or tee shirts may be offensive and be viewed as sexual harassment.

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Making sexual gestures with hands or body movements. Looking a person up and down in a suggestive or intimidating manner may also constitute sexual harassment.

Letters, gifts, or materials of a sexual nature. Such attention may not be appreciated in the manner intended, may be offensive to the subject of the attention, and may constitute sexual harassment.

Treating a student differently based upon his/her gender in academia or extracurricular activities, academic programs, discipline, classroom assignment, physical education, grading, and/or athletics.

3. Physical
Offensive physical contact. Possible problem areas include: Massaging a person's neck or shoulders; touching a person's clothing, hair, or body; hugging, kissing, patting, or stroking a person's body; touching or rubbing oneself in a sexual manner around or in the view of another person; brushing up against another person; tearing, pulling, or yanking a person's clothing, may all constitute sexual harassment.
4. False Allegations
In accordance with the Student Code of Conduct, as listed in Students' Rights and Responsibilities, Section III, Prohibited Conduct, #15, "Providing false representations to the university in any form. Submission of false information or withholding information at the time of admission or readmission may make an individual ineligible for admission to, or continuation in, Oklahoma State University Institute of Technology."

RETALIATION

- 2.01 The university will not tolerate retaliation against persons who bring a complaint of sexual harassment or sexual assault, whether such complaint is brought internally or with an external agency. A student who retaliates in any way against an individual who has brought a complaint pursuant to this policy or participated in an investigation of such a complaint is subject to disciplinary action, up to and including expulsion from the university.

PROCEDURES

- 3.01 Disciplinary procedures in alleged cases of sexual misconduct: due to the sensitive nature of this category of student misconduct, special procedures have been established.

Sexual Misconduct: OSUIT encourages the reporting of instances of sexual misconduct to the Title IX Coordinator. To assure a proper balance between the rights and interests of the alleged victim of sexual misconduct and the alleged perpetrator of an act of sexual misconduct, and to "encourage and foster a positive atmosphere for the prompt reporting and handling of all cases of alleged sexual misconduct, including encouraging alleged victims to testify and otherwise actively participate in the adjudication process, the

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following measures are adopted by the university for application to hearings regarding alleged instance of sexual misconduct:

A. Special Mandatory Rights in Cases Involving Alleged Sexual Misconduct:

1. The alleged victim shall be permitted to have a person or persons of his or her own choosing accompany him or her throughout the disciplinary hearing;
2. The alleged victim shall be permitted to be present during the entire discipline hearing (except during deliberations of the panel);
3. The alleged victim shall have the right to be informed of the outcome of the hearing upon its conclusion by the panel;
4. The person alleged to have engaged in sexual misconduct shall also be afforded all of the rights.

B. Disciplinary Procedures

Refer to *4-001 Student Conduct*.

Approved: August 1996
Revised: September 2005
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