

OKLAHOMA STATE UNIVERSITY INSTITUTE OF TECHNOLOGY
POLICY & PROCEDURES LETTER

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

**4-006
STUDENT AFFAIRS
July 2009**

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 Oklahoma State University Institute of Technology 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 include "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, the University 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 matter 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. "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).
 - B. "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.

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- C. "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.
- D. "Consent" means the positive cooperation in act or attitude pursuant to an exercise of free will. The person consenting must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. The persons 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.
- E. "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.
- F. "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
 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.

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PROCEDURES

2.01 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: Oklahoma State University Institute of Technology encourages the reporting of instances of sexual misconduct. 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 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 Policy and Procedures, 4-001 Student Conduct.

Approved: August 1996
Revised: September 2005
Revised: July 2009