



# **STUDENT RIGHTS AND RESPONSIBILITIES**

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Oklahoma City, OK 73107**

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## I. Introduction

It is the intent of OSU-OKC to ensure that students understand their rights and their responsibilities as students. Student Rights and Responsibilities clarifies the rights and responsibilities for student members of this academic community.

Under authority granted by Article 6, Sections 31 and 31a of the Constitution of the State of Oklahoma and Title 70, 1991 Oklahoma Statutes, Sections 3412 (a), (o), OSU-OKC is granted full authority to distribute policies and procedures governing the conduct of its students.

See website [www.osuokc.edu/rights](http://www.osuokc.edu/rights) for the complete Student Rights and Responsibilities Governing Student Behavior that includes information about:

- General Student Disciplinary Policies
- Academic Policies, Rights and Responsibilities
- Academic Discipline, Procedures and Grievances
- Nonacademic Discipline, Procedures and Grievances
- Disciplinary Sanctions
- Extracurricular Use of University Facilities, Areas or Media for the Purpose of Expression
- Oklahoma State Policy for All Students and Employees Regarding the Drug-Free Schools and Communities Act
- Hazing
- Gender Discrimination and Sexual Harassment

Copies of the Student Rights and Responsibilities Governing Student Behavior are available in the Office of the Vice President for Student Services and the Office of Student Life.

## II. Policies, Rights and Responsibilities

### A. General Statement

As members of the academic community, students have both rights and responsibilities. The most essential student right is the right to competent instruction under conditions conducive to learning. The most important responsibilities are to respect the rights of other members of the academic community and to conform to standards essential to the purposes and processes of the institution.

The institution should endeavor to provide for students those privileges, opportunities, and protections which best promote the learning process in all its aspects. The following statement outlines those academic rights and responsibilities of students essential in helping the academic community fulfill this responsibility. The principles found herein are designed to facilitate communication, foster academic integrity, and defend freedoms of inquiry, discussion, and expression among members of the academic community. Such principles should safeguard and enhance conditions conducive to learning, and will serve as a guide for students, faculty, and administrators involved in programs of instruction and classroom activities. (NOTE: Nothing herein, however, shall create or be deemed to create, any claim or cause of action, in law or in equity, against the institution or any of its agents or employees.)

### B. Access to Academic Programs

Oklahoma State University-Oklahoma City is committed to serving a wide spectrum of people. Access to the programs and services of the institution should be governed by the following principles:

1. Within the limitations of its facilities, resources, and personnel, the institution should be open to all persons who are qualified according to admissions standards.

Except where limited by duly constituted admission standards of degree programs, students who have been admitted to and are in good standing with the institution shall be allowed to enroll in any major (field of concentration) offered by any division within the institution.

2. Students should not be refused access to any course of study on the grounds of their beliefs or the possible uses to which they may put the knowledge to be gained in a course.

3. Students are responsible for representing themselves truthfully and accurately at all times. Providing false or misleading information to gain admission to or advancement in a program or course of study violates this responsibility and may result in forfeiture of one's right to access to an academic program.

### C. Student//Faculty Relations and Classroom Activities

The institution should endeavor to provide a learning environment where honest academic conduct is fostered and where even-handed treatment in all aspects of the instructor-student relationship exists. The following principles will facilitate such an environment:

1. Students should enjoy free inquiry and expression. They should be free to take reasoned exception to the data and views offered in a course and to reserve judgment about matters of opinion. However, students are still responsible for maintaining standards of academic performance and learning the contents of any course of study for which they are enrolled.
2. Subject matter presented to students in a course of study should be generally consistent with the description, purpose, and scope announced for the course.
3. Evaluation of students and the award of credit should be based on academic performance professionally judged and not on matters irrelevant to that performance, whether personality, race, age, sex, religion, national origin, disability, degree of political activism, or personal beliefs. Course grades should reflect the standards of academic integrity and performance established by the faculty member and the institution.
4. Students and faculty are expected to help maintain the quality and integrity of the educational process by conducting themselves in an honest and ethical manner. Any form of academic misconduct represents an erosion of academic standards and should not be tolerated by either the instructor or the student. Knowledge of any dishonest act should be reported and dealt with through orderly procedures as established by the institution.
5. Students should maintain a sense of responsibility when planning degree programs and class schedules. It is their responsibility to become informed of degree requirements and to meet those requirements satisfactorily. Likewise, the institution should provide timely, accurate information related to the respective degree programs.
6. Students should enroll in courses with the intention of devoting the effort both inside and outside the classroom necessary to complete all course requirements satisfactorily.
7. It is the responsibility of the student to act in a manner conducive to learning by being prepared, prompt, attentive, and courteous in the classroom and abiding by policies set by the instructor to maintain an academic decorum.
8. Cell phones and other electronic devices are disruptive to the class. If a student's work or family situation requires the student to keep the device turned on during class, the student must turn the phone to a silent or vibrate mode. If a student must receive a call during class, the student will leave the room. A student may not make a call during class. Cell phones and all electronic devices may not be used during an exam unless stipulated by the instructor. Use of a cell phone or electronic device during an exam is

considered academic misconduct, and the student will be subject to the appropriate penalties. This policy may be strengthened by the instructor.

### III. General Student Disciplinary Policies

Disciplinary policies at OSU-Oklahoma City are set forth in writing in order to give students general notice of prohibited conduct. These policies should be read and interpreted broadly. They are not designed to identify or define all possible types of prohibited conduct in exhaustive terms.

#### A. Definitions of Inappropriate Behavior

Students will be held accountable for, and face possible disciplinary action, should their behavior fall into one of the following categories:

1. Academic Dishonesty: Behavior in which a deliberately fraudulent misrepresentation is employed in an attempt to gain undeserved academic credit, either for oneself or for another person.
2. Academic Misconduct: Academic misconduct differs from academic dishonesty in that there is no intent to deliberately obtain undeserved academic credit by fraudulent means. Even unknowingly allowing other students to see test answers or to see term projects or papers are possible acts of academic misconduct. Students are required to actively protect their work against misuse by others.
3. Nonacademic Misconduct: Misconduct that is not of an academic nature, usually involving violations of law, institutional policies or accepted societal norms.

#### B. Acts of Academic Dishonesty and Misconduct

##### 1. *Examples of Academic Dishonesty:*

- **Plagiarism**: The representation of previously written, published, or created work as one's own. Wherever the wording, arguments, data, design, etc. belonging to someone else are used in a paper, report, oral presentation, or similar academic project, this fact must be made explicitly clear by citing the appropriate references or sources. The reference wording must fully indicate the extent to which any part or parts of the project are attributed to others. Paraphrased materials must be acknowledged in the same manner as material that is used verbatim.
- **Unauthorized Collaboration on Projects**: The representation of work as solely one's own when in fact it is the result of an unauthorized joint effort.

- **Cheating on Examinations:** The covert gathering of information before or during an examination from other students or use of unauthorized notes or other unapproved aids. It is the responsibility of the instructor to indicate what testing aids, if any, are authorized for use during an examination.
- **Unauthorized Advance Access to Exams:** The submission of materials prepared at leisure, as a result of unauthorized advance access to an examination or examination materials, as if the materials were prepared under the rigors of the exam setting.
- **Fraudulent Alteration of Academic Materials:** The alteration of graded papers, research data, computer materials/records, course withdrawal slips and trial schedules, or the falsification of any academic documents in order to receive undeserved credit or advantage. This includes forging instructors' or advisors' signatures and altering transcripts.
- **Knowing Cooperation with Another Person in an Academically Dishonest Undertaking:** Failure by a student to prevent misuse of his/her work by others. A student must actively protect his/her own work. Reasonable care must be taken that exam answers are not seen by others or that term papers or projects are not plagiarized or otherwise misused by others. Even passive cooperation in such an act is unacceptable.

## *2. Examples of Academic Misconduct*

- Failure to observe the rules governing the conduct of examinations through ignorance, carelessness, preoccupation, or psychological stress. Failure to stop when time is called at the end of an examination.

Faculty members have the authority to set reasonable standards in their classes within the definitions provided. Clearly communicated and consistently enforced standards regarding academic dishonesty and misconduct will be upheld by the Academic Appeals Committee.

## **IV. Academic Discipline, Procedures and Grievances**

### **A. Evidentiary Standards for Academic Dishonesty**

In the case of academic dishonesty, the burden of proof rests with the faculty member to demonstrate by “clear and convincing evidence” that the alleged act(s) occurred. Academic dishonesty requires an intent to deceive. A person’s behavior in context can provide clear and convincing evidence of intent. The Academic Appeals Committee has authority to change and/or reduce charges against the student.

In most circumstances, evidence supporting the faculty member’s assertion of academic dishonesty should be presented in the form of (1) documentary evidence, or (2) corroborating testimony from the institution’s faculty or staff, or other witnesses. Only in instances in which no other supporting evidence is available should faculty members use other students as witnesses in support of an allegation of academic dishonesty. Because the student accused of academic dishonesty has the right to cross-examine the witnesses against him or her, written statements by persons not present at the Academic Appeals Committee hearing normally will not be considered by the committee.

### **B. Faculty Procedures for Cases of Alleged Academic Dishonesty**

1. Instructor of Record, defined: The instructor of record is the individual responsible for the final grade assignment. Other faculty members who are participating in a course (such as in team-taught courses) and clinical or lab instructors are also expected to participate in any appropriate way in assessing any penalties for dishonesty (or misconduct) and in any appeal. However, the instructor of record is responsible for all actions that arise from the class team, which means that he/she must ultimately make any decision regarding whether or not to charge a student with academic dishonesty.

2. Instructor Procedures: In instances where the instructor of record has clear and convincing evidence that a student has engaged in dishonest academic behavior, the following procedures will be used:

a. The instructor of record shall discuss the situation as soon as possible with the student, explaining the allegation, the reasons for it, and the disciplinary action(s) being considered, and shall give the student the opportunity to respond to the allegation. After consultation with the student, the instructor of record may decide to initiate one or more of the following:

- Require the student to complete a substitute assignment or examination.
- Award a reduced grade for the examination, assignment, or course.
- Award a grade of “zero” or “F” for the assignment or examination.
- Award a grade of “F” for the course.

If the faculty member believes further disciplinary action is warranted he/she may recommend to the Judicial Coordinator that action be initiated for more stringent disciplinary action (e.g., conduct probation, suspension, or expulsion) by the institution.

- b. If disciplinary action is, such as conduct probation, suspension or expulsion is recommended, the instructor of record must communicate in writing, within ten working/school days, the actions taken, and the reasons for them to the (1) student, (2) department head of the instructor of record, (3) division head, (4) Vice President of Academic Affairs, and (5) Judicial Coordinator

3. Student Appeal of Alleged Academic Dishonesty: A student alleged to have engaged in academic dishonesty shall have the right of due process and review as delineated herein, should he/she believe the instructor's action was unfair. If the student decides to challenge any disciplinary actions taken by the instructor, he/she may file an appeal with the Academic Appeals Committee within ten working/school days of receiving the written notice of action taken by the instructor of record. No disciplinary action may be carried out while a case is being appealed; nor may the student who has been accused of academic dishonesty withdraw from the course while the accusation is pending. The Academic Affairs Office will write a memorandum instructing that a registration and transcript hold be placed on the student's record until a decision can be made. If the student is absolved of alleged academic dishonesty, withdrawal from the course with no record appearing on the transcript is allowed. Conversely, should the Academic Appeals Committee sustain the action of the instructor, the student will not be permitted to drop the class. The student will use the following procedures in filing an appeal.

- a. The student obtains and completes an appeal form, which is available from the Office of the Vice President for Academic Affairs. In completing an appeal form, the student must discuss the situation with (1) the instructor of record, (2) the department head of the instructor of record, and (3) the division head or designated representative. The completion of this form insures that appropriate parties have an opportunity to consider the allegation and appeal.

- b. The student submits the appeal form to the Office of Academic Affairs, which in turn
  - gives the student notice of receipt of the appeal form
  - assembles the verification documents
  - forwards the case to the Academic Appeals Committee

4. In cases of alleged academic dishonesty where the instructor of record recommends that the student be suspended or expelled from the institution, the Judicial Coordinator shall be responsible for administering and processing the recommendation as a disciplinary complaint. In the event a formal hearing is required to resolve the complaint, the Academic Appeals Committee will hear and decide the matter.

If the student is dissatisfied with the decision of the Academic Appeals Committee in suspending or expelling him/her, he/she may appeal to the Vice President for Academic

Affairs, who has the final authority in matters of suspension and expulsion for Academic dishonesty.

### **C. Faculty Procedures in Cases of Alleged Academic Misconduct**

1. Instructor of Record, definition: The instructor of record is the individual responsible for the final grade assignment. Other faculty members who are participating in a course (such as in team-taught courses) may be requested to participate in any appropriate way in assessing any penalties for misconduct (or dishonesty) and in any appeal. However, the instructor of record is responsible for all actions that arise from the class team, which means that he/she must ultimately make any decision regarding whether or not to charge a student with academic misconduct.

2. Instructor Procedures: In instances where the instructor of record believes that a student has engaged in academic misconduct, the following procedures will be used.

a. The instructor of record shall discuss the situation as soon as possible with the student, explaining the allegation, the reasons for it, and the disciplinary action(s) being considered, and shall give the student the opportunity to respond to the allegation.

b. If after consultation with the student, the instructor of record decides to initiate disciplinary action, he/she may take one or more of the following actions.

- Require the student to complete a substitute assignment or examination.
- Award a reduced grade for the assignment or examination.
- Award a grade of "zero" or "F" for the assignment or examination.

c. The student must be clearly notified in writing of any penalty within ten business days of the discovery of the alleged act of misconduct.

3. Student Appeal of Alleged Academic Misconduct:

Grade reductions for reasons of academic misconduct make no allegation of moral shortcomings and require no further notification of officials of the institution. Student appeals in such cases are to be seen as generally comparable to grade appeals. In this instance, the burden of proof rests upon the student to establish his/her case. This may be done by showing that (1) the student was not clearly notified of the non-permissibility of the behavior in question, (2) the penalty was inconsistently administered, or (3) the non-permissible behavior did not occur. If the student wishes to argue the third alternative, he/she should be prepared to present corroborating evidence in support of the claim.

## **D. Academic Appeals Committee**

The Academic Appeals Committee is authorized by the president of the institution to review appeals of alleged academic dishonesty or misconduct and to decide upon the appropriateness of the charge and all sanctions. The Academic Appeals Committee will (1) determine whether or not the parties involved acted within the prescribed policies and procedures for academic dishonesty or misconduct, (2) determine whether or not the allegations of academic dishonesty or misconduct are valid, and (3) determine whether or not the instructor's action was appropriate.

The Academic Appeals Committee has the authority to substantiate or reduce the charge against the student and to sustain, reduce, or dismiss the disciplinary action taken by the instructor of record. The Academic Appeals Committee can also reduce the charge of the academic dishonesty to academic misconduct if deemed appropriate by a majority of the members. The procedures for the Academic Appeals Committee afford the student his/her right of due process by providing the following opportunities.

- Written notification of the time and place of the hearing of the appeal.
- A copy of the appeal verification form.
- The right to appear in person and present one's case. (Either party may elect not to appear. In this instance, the hearing shall be held in his/her absence. Failure to appear must be noted without prejudice.)
- The right to meet with the Committee at the same hearing as the instructor so no further allegations can be made against the student without the student's knowledge or against the instructor without the instructor's knowledge.
- The right to be accompanied by an advisor, colleague, or friend.
- The right to call witnesses to assist in establishing the facts of the case.
- The right to ask questions and refuse to answer questions.
- The right to an explanation of the reasons for any decision rendered.

The decisions of the Academic Appeals Committee, and its justification for them, will be communicated by the Committee chair (or co-chairs) in writing within ten working/school days to the (1) student, (2) instructor of record, (3) department head of the instructor of record, and (4) instructor's division head.

Any Instructor, Lead Instructor, Department Head or Division Head of a student appealing a case to the Academic Appeals Committee is required to excuse him/herself from that particular case/hearing.

## **E. Student Appeal of a Final Grade to the Academic Appeals Committee**

1. It is the responsibility of the faculty members of Oklahoma State University-Oklahoma City to communicate to students early in the term a clear statement of the grading practices and procedures that will be used to determine the student's final grade. This shall be included in the course syllabus. If a student believes those practices and procedures were not consistently and accurately followed when the instructor determined the student's final grade, the student shall have the right to appeal the case to the Academic Appeals Committee within four months after the grade was assigned, or six weeks after the student begins a new semester, whichever comes first, if informal discussion fails to resolve the issue.

The basis for the Academic Appeals Committee to change an assigned final grade is typically the failure of the instructor to assign that grade fairly and accurately within the grading system published by the instructor in his/her course syllabus or syllabus addendum. Examples of information which must be provided in the course syllabus include, but are not limited to, an explanation of the grading criteria, the grading scale, and due dates for all papers, projects, or other academic work to be handed in to the Instructor. All changes in the instructor's policies after the semester has begun must be made in writing as part of a written addendum to the course syllabus; this addendum should be clearly labeled as such and dated. If the alleged failure by the instructor to assign a final grade fairly and accurately within the grading system published in the course syllabus or written addendum is not demonstrated to the Academic Appeals Committee, the final grade will stand as assigned by the instructor.

In addition, a significant failure by a faculty member to behavior in a business-like and professional manner that affects a student's final grade may also be considered grounds for an academic grade appeal.

### 2. The Burden of Proof

The burden of proof in all grade appeals is on the student who is challenging the final grade in the course. Therefore, the student may wish to bring a copy of the course syllabus (with any written addendums) and graded work (if any) to the hearing. In cases in which the instructor allegedly did not issue a course syllabus, or in which he/she allegedly did not provide a written addendum for any alleged changes affecting the determination of the final grade in the course, the student may wish to provide direct witnesses or written testimony (with the original signature) from other students to corroborate these allegations. In other words, the student must show reasonable evidence that the instructor failed to fairly and accurately assign the final grade in harmony with the grading system published in his/her course syllabus or syllabus addendum. If the student cannot show reasonable evidence to that effect, then the final grade will stand as assigned by the instructor.

### 3. Procedures Before the Case Goes to the Academic Appeals Committee

Before an academic appeals case reaches the Academic Appeals Committee, the student must obtain a Grade Appeal Form from the Office of Academic Affairs. Then he/she must consult directly with the following persons, in the order given, until the matter is resolved or reaches an impasse:

- instructor
- instructor's department head (or other immediate supervisor if no department head position exists for that particular course)
- instructor's division head

The specific dates of these consultations should be noted on the Grade Appeal Form, along with the actual names of those consulted. If the matter is not resolved as the result of this process, then the student should complete the remaining portion of the Grade Appeal Form and submit it, along with a concise statement explaining the reason for the appeal, to the Office of Academic Affairs.

NOTE: A student should NOT submit the Grade Appeal Form if he/she has not consulted with all three (3) designated parties. However, if one of those persons is not available, the Office of Academic Affairs may pass the Grade Appeal Form with that information to the chair (or one of the co-chairs) of the Academic Appeals Committee.

### 4. Authority of the Academic Appeals Committee

In relationship to an appealed grade, the Academic Appeals Committee has the final authority to instruct the Registrar to change a final course grade.

## **V. Administration of Nonacademic Discipline**

The responsibility of administering the discipline system is delegated from the Oklahoma State University Board of Regents to the Vice President for Student Services and his/her designee the Judicial Affairs Coordinator who is authorized to handle violations of the code of student conduct as set forth in the statement on Student Rights and Responsibilities. All cases should be resolved at the lowest level possible. The most current version of the Code of Conduct is available electronically at [www.osuokc.edu/rights](http://www.osuokc.edu/rights)

### **Interim Suspension**

Interim Suspension is an immediate suspension and physical exclusion from the campus upon notice from the Vice President for Student Affairs. Interim suspension is done without an informal or formal hearing, pending further disciplinary proceedings. The Vice President for Student Affairs will base his/her decision on whether the allegation of misconduct is apparently reliable and whether the continued presence of the student on the University campus reasonably poses a threat to the physical or emotional condition and well-being of any individual, including the student, or for reasons relating to the safety and welfare of any University property, or any University function. Interim suspension usually includes physical exclusion from the campus. A hearing will then be scheduled (usually within ten University working days) to determine the disposition of the case.

The interim suspension will remain in effect until a final decision has been made on the pending complaint either through an administrative or formal hearing process or until the Vice President of Student Services determines that the reason for imposing the interim suspension no longer exists.

### **A. Definitions**

1. The term "adviser" means any person who has agreed to assist a complaining or responding student during a Nonacademic Discipline Panel. The adviser may be an OSU-Oklahoma City faculty or staff member, or another OSU-Oklahoma City student. The adviser is limited to advising the student and may not speak for or on behalf of a student.
2. The term "complainant" means any individual (any OSU-Oklahoma City faculty, staff or student or the university) who files a disciplinary complaint or referral.
3. The term "day" means normal University working/school days, not including Saturday, Sunday and University holidays. Time deadlines may be extended during breaks and University holidays.
4. The terms "institution" and "University" means Oklahoma State University-Oklahoma City (OSU-Oklahoma City).

5. The term "student" means any person who is enrolled in courses, either full-time or part-time, including correspondence study, electronic means, or auditing courses offered by OSU- Oklahoma City. Students are subject to disciplinary action for conduct that occurs during any period of enrollment. Students who leave the University before a disciplinary matter is resolved may be prohibited from future enrollment until such time as the matter is resolved. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered "students"
6. The term "University premises" means buildings or grounds owned, leased, operated, controlled or supervised by the University.

## **B. Prohibited Conduct**

The following list constitutes violations for which students are subject to disciplinary action. This list is not designed to be all inclusive, but reflects examples of the types of prohibited behavior:

1. Academic dishonesty/misconduct including but not limited to cheating, plagiarism, unauthorized collaboration, and fraudulent alteration of academic materials.
2. Disruption or obstruction of normal university or university sponsored or hosted activities including, but not limited to, studying, teaching, research, university administration; or fire, police or emergency services on university premises; or at officially arranged university activities off-campus.
3. Any act which violates federal and/or state law, local ordinances or university policies, which includes Matters involving "disability discrimination" means cases referred for formal review where the issues to be reviewed may involve illegal discrimination of a person with a disability, as such term is defined in the Americans with Disabilities Act of 1990 or Section 504 of the Rehabilitation Act of 1973 (and as such Acts have been amended or further effectuated by applicable federal administrative regulations) or matters involving "illegal discrimination" (not involving a disability) means cases referred for formal review where the issues to be reviewed may involve illegal discrimination based upon race, color, national origin, sex, age, or religion, and such other areas of illegal discrimination as might be prohibited in the future by federal or state constitutional provision or statute.
4. Fighting or physical abuse of any person. Physical abuse is not limited to those actions causing personal injury. It may also include physically restraining someone against his/her will, holding or transporting an individual against his/her will, or similar actions.
5. Intentionally, recklessly, or negligently engaging in verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct which threatens or

- endangers the mental or physical health and/or safety of any person or causes reasonable apprehension of such harm.
6. Theft, attempted theft or unauthorized use or possession of university property or property belonging to others.
  7. Individual or group activities that result in defacement, damage or destruction of University or personal property.
  8. Sexual misconduct includes, but is not limited to, unwelcome sexual contact or acts which involve 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.
  9. Stalking is defined as willfully, maliciously, and repeatedly following or harassing another person in a manner that would cause a reasonable person to feel frightened, intimidated, harassed, or molested.
  10. Sexual harassment, a form of gender discrimination, includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature when:
    - a. 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 any university activity; or
    - b. 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
    - c. such conduct has the purpose or effect of unreasonably interfering with the other individual's performance or creating an intimidating, hostile, or offensive education and university environment.
  11. Stalking which is defined as willfully, maliciously, and repeatedly following or harassing another person in a manner that would cause a reasonable person to feel frightened, intimidated, harassed, or molested.
  12. Hazing which is any action or activity which causes or intends to cause physical or mental discomfort or distress, which may demean, degrade, or disgrace any person, regardless of location, intent or consent of participants, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.

13. Gambling for money or other things of value on campus or at university-sponsored activities except as permitted by law.
14. Failure to comply with the lawful directions of any university employee acting within the scope of their official duties and/or failure to identify oneself to such a person when requested to do so.
15. Intentionally or recklessly interfering with normal university or university-sponsored activities.
16. Forgery or unauthorized use of university documents, financial aid documents, records, computers, electronic mail, telephones, identification or property. This includes providing false representations to the university in any form, written or verbal. 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, OSU-Oklahoma City.
17. Possessing, using or storing firearms, explosives, weapons, or dangerous chemicals on university property or in the course of any university activity.
18. False reporting of a bomb, fire or other emergency.
19. Misuse of unauthorized use of fire fighting, fire sprinkler systems, and other safety equipment or warning devices.
20. Unauthorized entry into or use of any university building, facility, vehicle, equipment room or area. This includes unauthorized possession or use of University keys, computers, lock combinations or other special access codes, including telephone codes
21. Illegal use, possession, cultivation, manufacture, sale or distribution of any state or federally controlled drug or substance. Consumption, possession, sale and serving of alcoholic beverages on campus and in any of its buildings or at university functions. Students are expected to know and abide by all applicable laws regarding alcoholic beverages.
22. Use of tobacco and tobacco products except in designated areas.
23. Violation of university Information Technology policies including, but not limited to, the electronic mail policy, the computer use policy, and the network security policy.
24. Attempting, or encouraging others, to commit prohibited acts may be sanctioned to the same extent as if one had committed the prohibited act.
25. Classroom disruption is behavior or activity that interferes with the instructor's ability to teach the class or students' ability to benefit from the educational process.

26. Interfering with disciplinary procedures or outcomes, including but not limited to: falsification, distortion or misrepresentation of information before a hearing officer or hearing panel; knowingly initiating a complaint without cause; harassment and/or intimidation of any member of a hearing panel, witness(es), or university personnel before, during or after a proceeding; failure to comply with the sanction(s) imposed by either a hearing officer or hearing panel.

### **C. Judicial Affairs Coordinator**

The Judicial Affairs Coordinator has campus-wide responsibility for administering the code of conduct as contained in the Student Rights and Responsibilities Governing Student Behavior. The Judicial Affairs Coordinator on campus is the Director of Student Engagement. The Judicial Affairs Coordinator maintains all student records relating to both academic and nonacademic student misconduct and dishonesty. Within this capacity, the Judicial Affairs Coordinator serves as a resource person for administrators, faculty, staff and students to promote consistency throughout the University community in the adjudication of cases of student misconduct. Also, the Judicial Affairs Coordinator shall explore all allegations of nonacademic and certain academic violations referred by a variety of officials, including the Vice President for Student Services, security officers, faculty members, University administrators, and civil authorities.

### **D. Decision Standards for Nonacademic Misconduct**

In all cases of alleged nonacademic misconduct, the Judicial Affairs Coordinator will be responsible for compiling sufficient evidence to substantiate the charges. The evidence must support a determination that it is “more likely than not” that a violation of the student code of conduct occurred.

If expulsion is a possible sanction, the evidence must support a “clear and convincing” standard. Hearsay evidence and personal testimony may be considered and will be weighed accordingly.

### **E. How to File a Complaint for Nonacademic Misconduct**

1. Any member of the University community (faculty, staff, or student including the University) may file a disciplinary complaint against a current student alleging that a violation of the Code of Conduct has occurred. When reporting a nonacademic misconduct issue, contact the Judicial Affairs Coordinator. If you are reporting a crime you should notify campus security to file a security report.
2. The complaint should be filed with the Judicial Affairs Coordinator. The complaint shall:

- a. Be in writing and signed by the complainant;
- b. include the date, time, place, names of person(s) involved and the circumstances of the alleged violation;
- c. Include name(s) of person(s) who witnessed the alleged violation.

Informal Hearings of Alleged Acts of Nonacademic Misconduct (heard by the Judicial Affairs Coordinator). Informal hearings are typically reserved for allegations of misconduct which if found responsible would result in a sanction less than suspension from the university.

- a. The Judicial Affairs Coordinator investigates and gathers evidence about the alleged misconduct and evaluates the accuracy, credibility and sufficiency of any information presented/testimony.
- b. If further investigation is necessary, the Judicial Affairs Coordinator will notify the student in writing and/or by telephone to establish a time and place for an informal conference. A student who is subject to an informal conference is accorded due process including the following rights:
  - i. The student is presented a written statement of the alleged violations against him/her.
  - ii. The student will be provided an opportunity to give his/her account of the incident or circumstances involved with the alleged violations.
  - iii. The Judicial Affairs Coordinator conducts an interview with the student to clarify, substantiate or disallow information, facts, and reports surrounding the alleged violation.
  - iv. Points of difference are clarified between the student's account of the incident and information obtained through the hearing officer's investigation.

### 3. Findings

- a. As a result of the informal conference with a student, the Judicial Affairs Coordinator may take one of the following actions:
  - i. The allegations may be dismissed as unfounded.
  - ii. The student may admit to the allegations and a sanction will be imposed.
  - iii. The student may be found in violation of the Code of Conduct and a sanction will be imposed.

- b. informal dispositions shall be final and there shall be no subsequent proceedings.

## **F. Formal Hearings of Alleged Acts of Nonacademic Misconduct**

In the judgment of the Judicial Affairs Coordinator, an offense is so serious that suspension from the University is possible or probable, the student will be notified of a formal hearing. The hearing shall be conducted in a manner which ensures fundamental fairness to all parties while not being restricted by the rules of protocol associated with criminal court proceedings.

Any student whose behavior may warrant suspension or expulsion may waive his/her right to a formal hearing, in writing, and have the matter resolved informally through the administrative hearing process. The formal hearing option may also not be available during final examinations, breaks, or other periods when a timely hearing by a Student Judicial Committee Hearing Panel is not possible, or when in the judgment of the Coordinator of Student Judicial Affairs or Vice President for Student Affairs, appearing before the judicial panel poses a threat to the physical welfare of panel members or witness(es). Such cases will be heard by the Coordinator of Student Judicial Affairs or his/her designee and any and all sanctions, including suspension or expulsion, from the University may be applied.

The following procedures apply to the formation of panels for the formal review of allegations of nonacademic misconduct.

1. The Nonacademic Discipline Panel hears those cases referred by the Judicial Affairs Coordinator. The committee will consist of five members; two faculty, two students, and one staff member. The hearing will be chaired by a faculty member designated by the Vice President of Student Services. Members will represent the diversity of the OSU-Oklahoma City faculty, staff, and students.
2. At the beginning of each academic year, all members of the Board shall receive training and education sessions sponsored by the Office of the Vice President for Student Services regarding general legal and procedural concerns regarding nonacademic student discipline matters.

## **G. Formal Complaint Process**

1. The complaint should be filed with the Judicial Affairs Coordinator. The Judicial Affairs Coordinator on campus is the Director of Student Engagement.
2. The complaint shall:
  - a. Be in writing and signed by the complainant;
  - b. Include the date, time, place, names of person(s) involved and the circumstances of the alleged violation;

- c. Include name(s) of person(s) who witnessed the alleged violation.

## **H. Formal Hearing of Alleged Acts of Nonacademic Misconduct**

1. The Nonacademic Discipline Panel has jurisdiction over cases referred to it by the Judicial Affairs Coordinator. The following procedures are followed for formal hearings:
  - a. A “notification of charge and pending disciplinary hearing” letter shall be delivered in person or sent to the student’s local address of record as filed in the Registrar’s office at least five University working days before the hearing. Such notification shall include:
    - (1) A statement of the date, time, place and nature of the hearing;
    - (2) Reference to the particular items of the Conduct Code which are involved;
    - (3) A short and plain statement explaining the alleged violation. The statement shall include the date, time and place where the alleged violation(s) occurred, the names, if known, of witness(es), and the act(s) or omission(s) alleged to constitute a violation.
  - b. Upon request, the student alleged to have committed a violation(s) shall have the right to examine any documentary evidence to be presented at the hearing, prior to the hearing during regular business hours. The Judicial Affairs Coordinator will redact witnesses names from the documents.
  - c. The complainant and accused students may have an advisor present during the hearing process. The advisor is limited to advising the student and may not participate in presenting the case, direct questioning of relevant parties, or making statements during the proceedings. If the accused student is accompanied by an attorney at the hearing, the University will have an attorney present as well. Any adviser, including an attorney, is limited to advising the student only and may not present the case, question relevant parties, or make statements during the proceedings. The student must notify the Judicial Affairs Coordinator forty-eight (48) hours in advance of the hearing if accompanied by an attorney.
  - d. All parties may present witness(es). If the University is calling a witness(es) they must provide a list of witness(es) to be called to the accused student at least 2 days in advance. If the accused student is calling a witness(es) he/she must provide a witness list at least 2 days in advance and submit a notice in writing stating their name(s) and the nature of their testimony. It is the responsibility of the accused student to notify

his/her witnesses of the date, time, and location of the hearing. Material witnesses will be present during the introductory comments of the hearing, including the honesty statement\*, at which point they will be excused until time to give their testimony. Witnesses will be excused upon completion of testimony and questioning, however, s/he may be asked to remain available for recall. The complainant and respondent remain throughout the hearing.

- e. Hearing proceedings (excluding the deliberation of the committee) shall be recorded in full. Audio tapes will be retained inside the student's file.
- f. All hearings will be closed.
- g. The student is entitled to appear in person to hear the information presented. If a student elects not to appear, the hearing will be held in his/her absence. Failure of a student to appear will be noted without prejudice. Findings will be based on the available information at the time of the hearing.
- h. Following the hearing, the Nonacademic Discipline Panel will deliberate a decision and, by majority vote, find whether it is more likely than not that a violation(s) has occurred. If so, the committee shall have the authority to make one of the following recommendations:

(1) Dismiss the case

**or**

(2) Affirm the charges and recommend a sanction(s) commensurate to the offense.

\*Honesty statement: The University expects that all information presented will be truthful and accurate. Be advised that if false information is willfully provided, a student will be in violation of the Code of Conduct and may be subject to disciplinary action.

### Findings

The hearing panel decision will be communicated in writing to the student within five (5) working/school days of the hearing by the Vice-President of Student Services.

## **I. University Conduct Appeals**

The Vice-President of Student Services hears appeals of discipline decisions and grievance hearing recommendations/decisions made by a Nonacademic Discipline Panel.

## **J. Appeals Procedure for the Nonacademic Misconduct Appeals**

\* An appeal does not represent a new hearing.

### **How to File an Appeal**

1. Any student may appeal the decision of the by the Nonacademic Discipline Panel in writing and addressing the appeal to the Vice-President of Student Services OSU-Oklahoma City, 900 North Portland Avenue, Oklahoma City, OK 73107.
2. The appeal must cite at least one criteria as the reason for the appeal, and be delivered to the Vice-President of Student Services for processing within five (5) University working/school days after receiving the decision.
3. Grounds for an appeal:
  - a. Procedures were not properly followed as outlined in Student Rights and Responsibilities.
  - b. New or newly discovered information which substantially affects the outcome of the hearing has been discovered. Under these criteria, the case may be referred back to the hearing body.
  - c. The imposed sanction was inconsistent or too severe for the gravity of the violation(s).

### **Review of the Appeal**

The Vice-President of Student Services will review the record of the prior hearing(s), related documents and evidence. The Vice-President of Student Services will render a decision based upon the criteria cited as the reason for the appeal.

### **Findings of Appeal**

1. The decision of an appeal reviewed by the Vice President of Student Services may result in one of the following actions:
  - a. Upholding the sanction(s) because there were no procedural or prejudicial errors.
  - b. Amend sanctions.
  - c. Refer the case back to the Nonacademic Discipline Panel to review new information.
2. The final decision will be communicated, in writing, to the appealing student or group, with a copy sent to the appropriate department, within five University

working/school days of receiving the valid appeal letter. The final decision shall be signed by the Vice President for Student Services, and no further appeals are permitted.

### **Implementation of Sanction(s)**

The disciplinary penalty shall not ordinarily begin until either the time for appeal has been exhausted, or until the entire appeal process is completed, or until the individual or organization voluntarily waives their further right to appeal in writing. Exception to delaying the implementation of sanctions until the process is complete include: 1) when interim suspension has been invoked by the Vice President for Student Services or 2) to protect the safety of others on the campus.

## **VI. Disciplinary Sanctions**

Any student found in violation of nonacademic misconduct shall be subject to the following disciplinary actions.

Although not intended to be inclusive, the following are possible sanctions that may be imposed, either singularly or in combination, upon a student for violation(s) of Student Rights and Responsibilities:

### **A. Reprimand**

When a student is reprimanded, oral and written notification shall be made to the student, warning that continuation or repetition of the specified conduct may be cause for further disciplinary action.

### **B. Restriction**

A restriction upon a student's privileges may be imposed for a period of time. This restriction may include, but is not limited to, denial of the right to represent the University in any way, denial of the use of facilities, or denial of the opportunity to participate in extra-curricular activities.

### **C. Community Service or Educational Class**

The hearing officer or Judicial Affairs Coordinator may confer with the student and prescribe a project or class beneficial to the individual, campus or community. This project or class may be given alone or in conjunction with other sanctions, or in substitution for other sanctions, if the project is successfully completed.

### **D. Restitution**

A student who has committed an offense against property of the University may be required to reimburse the University for damages or misappropriation of property. Any such payment in restitution shall be limited to actual cost of repair or replacement and/or financial restitution.

### **E. Enrollment Hold, Cancellation of Enrollment and Graduation Hold**

#### **1. Enrollment Hold**

Enrollment hold is a "hold" on enrollment privileges for failure to meet with the Judicial Affairs Coordinator or hearing officer or for failure to comply with assigned

conditions or complete assigned sanctions. This hold can prevent the adding or dropping of classes and enrolling in subsequent semesters.

## 2. Cancellation of Enrollment

In instances where the Judicial Affairs Coordinator has placed a hold on a student's enrollment for failure to comply with sanctions resulting from a prior informal or formal hearing, the student's enrollment will be canceled for failure to meet the conditions of the clearance of the hold. If cancelled, the refund of tuition or fees will be subject to the University's normal withdrawal policy.

## 3. Graduation Hold

Should a student fail to respond to a request to meet with a hearing officer or the Judicial Affairs Coordinator or if a student fails to comply with already imposed disciplinary sanctions, then the Vice President for Student Services may place a hold on his or her participation in graduation exercises and receipt of his/her diploma.

## **F. Disciplinary Probation**

A student on probation is deemed not in good standing with the University, and his/her enrollment as a student on probation may be conditioned upon adherence to the rules and regulations. Any student placed on probation will be notified of the terms and length of the probation. Any further violation(s) will subject him/her to the imposition of additional restrictions or suspension. The probationary status and conditions are documented in writing.

## **G. Disciplinary Suspension**

Disciplinary Suspension is written notification of the termination of a student's status with the University for a specified period of time and includes a student's total separation from the University. Students who are suspended from OSU-Oklahoma City are not permitted on campus at any time for any reason during the period of suspension, unless otherwise directed by the Vice President for Student Services or his/her designee. A student placed on suspension will be withdrawn from classes. Any refund of tuition or fees will be subject to the University's normal withdrawal policy. Conditions of readmission shall be stated in the letter of suspension. Such order of suspension shall remain a part of the student's disciplinary record and will be recorded in his/her electronic record at the university. If the student is successfully readmitted to the University, the notation of suspension will be amended. Conditions for re-admission shall be stated in the written notification, including approval of the Judicial Affairs Coordinator.

## **H. Disciplinary Expulsion**

Disciplinary Expulsion is written notification of permanent separation of the student from the University. Expulsion will be recorded on the front of the academic transcript and becomes a permanent part of a student's disciplinary record. Any refund of tuition or fees will be subject to the University's normal withdrawal policy.

## **I. Disciplinary Files and Records**

1. Case referrals will result in the development of a disciplinary file in the name of the accused student. If the student is found not responsible for the charges, the file will be marked no action, no record, and shall not constitute a disciplinary record. Such files will be destroyed after one year.
2. The files of students found responsible for charges against them, with sanctions less than suspension or expulsion, will generally be maintained in the Judicial Affairs Coordinator's office for seven (7) years from the calendar year of record, after which they are destroyed.
3. Records of cases in which suspension or expulsion from the University occur, are kept for ten (10) and fifteen (15) years respectively.
4. Confidentiality - All disciplinary records are confidential and may not be disclosed in whole or in part except as provided by law or by the written authorization of the student, under legal compulsion, or where the safety of other persons may be involved. Disciplinary records are maintained separate from the student's academic record but are part of the student's educational record.
5. Re-release of disciplinary information/records -Unless otherwise accepted, individuals participating in disciplinary proceedings are bound by law to not disclose information discussed in the proceedings. When disciplinary records are permitted to be disclosed to an individual only, the information should not be re-disclosed, under penalty of law.

## **VII. Extracurricular Use of University Facilities, Areas or Media for the Purpose of Expression**

### **A. Philosophy and Scope**

#### 1. Philosophy

A goal of the faculty, students, administration, staff, and Board of Regents, is for OSU-Oklahoma City to be a superior educational center for the preservation, transmission, and discovery of knowledge. The wide variety of extracurricular activities at OSU-Oklahoma City represents one way this goal is achieved. Therefore, these activities are an integral part of the total educational mission of the University.

In fulfilling this mission, the University must recognize and protect free inquiry and free expression as indispensable components of the critical examination of philosophies and ideas. Given the unique mission of educational institutions in a democratic society, this inquiry should be more open and vigorous, and should consequently have greater protection than in society at large, provided that such inquiry does not infringe upon the rights of others. Commitment to free inquiry and expression creates a strong presumption against prohibition of expression based upon its content. This philosophy is intended to apply to all forms of expression occurring at the University and any uncertainty regarding the application or operation of this policy statement shall be resolved in a manner consistent with this philosophy.

#### 2. Scope

- a. This policy statement shall be applicable only to the extracurricular use of any University-controlled facility, area, or medium used as a forum generally open to members of the University community and others for the purpose of expression.
- b. Any University policy providing for condition or limitations on extracurricular expression shall be consistent with the Principles and Standards as stated in Section B.
- c. The Procedural Standards in Section C apply only to scheduling the extracurricular use of University-controlled facilities or areas for the purpose of expression.

### **B. Principles and Standards**

#### 1. In General

- a. The freedom of expression and assembly as guaranteed by the first and fourteenth amendments of the United States Constitution shall be enjoyed by all members of the academic community. Free discussion of subjects of either

controversial or noncontroversial nature, even when they are considered to be offensive or in poor taste, shall not be curtailed.

b. Although our Constitution establishes a sweeping commitment to these freedoms, it is well recognized that there is no absolute right to assemble, or to receive or present expression. As described below, permissible limitations include only those based on reasonable time, place or manner requirements and, in extremely rare circumstances, those based on content.

c. The fact that certain content-based limitations on expression have been established as legally permissible does not create an obligation or responsibility on the University or any of its official or employees to exercise any form of limitation or control of expression. Rather, because of its educational mission, it is the responsibility of the University and its officials to actively encourage free and open inquiry by avoiding and resisting limitations of expression.

## 2. Time, Place or Manner Considerations

a. Expression may be limited or restricted with respect to time, place or manner only as provided for in this policy statement and other related statements of policy. Such limitations shall be narrowly tailored to serve a significant interest (such as avoiding disruption of regular classes, avoiding the scheduling of two events at the same time in the same facility, and the protection of the public order) and to assure compliance with applicable local, state and federal laws. Any limitations must be both reasonable and content-neutral, the latter term meaning that they shall be applied without regard to the content of the expression or the purpose of the assembly.

b. Limitations may include requiring (1) scheduling and planning with the appropriate authorized designee, (2) restricting or prohibiting the use of certain areas, (3) limiting certain forms of expression in specific areas, and (4) reimbursing the University for any cost associated with the use of a facility, area, or medium.

## 3. Content Considerations

a. The First Amendment of the Constitution protects and guarantees freedom of speech by prohibiting any law which would serve to deny or limit expression. Through the Fourteenth Amendment, this prohibition is extended to all actions of state government, including those of publicly-supported universities. Accordingly, expression may not be denied or limited, based upon content, unless it is determined in a state or federal court proceeding that such speech or expression is not protected by the Constitution.

b. Denials or limitations of expression based upon content are not required by the Constitution or any law. Indeed, such content-based regulation is presumed to be

Constitutionally invalid by the United States Supreme Court. Accordingly, in determining whether to deny or limit expression based on its content, the University should be guided by its commitment to the educational mission of the institution.

#### 4. Disclaimer Regarding Expression

a. Given the wide diversity of expression that occurs at higher education institutions, the use of any University-controlled facility, area, or medium for any expression shall not constitute or suggest endorsement of the content of that expression, or any proponent thereof, by the Board of Regents, the University, its administration, staff, faculty, student body, or any individual member of these constituencies.

b. Presenters of expression shall assume full responsibility for any violation of law they commit while on University property.

#### **C. Procedural Standards for Scheduling University Areas or Facilities for Extracurricular Expression**

##### 1. Requests for the Use of a Scheduled University Facility or Area

a. The extracurricular use of any scheduled University-controlled facility or area for the purpose of expression shall be preceded by a request made to an authorized designee. A request shall contain the name of the requestor and how he/she can be contacted; the proposed date, time, and location for the contemplated activity; the expected size of the audience; the topic(s) or subject(s) to be addressed; and any other information which may be necessary to accommodate the needs associated with the activity.

b. The request should be made as far in advance as possible to provide for adequate review and orderly scheduling of facilities or areas. The amount of time required for review of a request will vary depending on the nature of the request. Barring extraordinary circumstances (e.g. extensive safety and security arrangements), review should normally be completed within a few hours or days. If the authorized designee determined that additional time is required for review, he/she should ask the requestor to specify the latest date by which a final response is necessary. This date is important so that the total review and decision process may be completed in sufficient time to allow the requestor to make final arrangements for the proposed expression in the event the request is granted.

c. As promptly as possible, but not later than six working days from the receipt of a request, the authorized designee must take one of the following actions:

i. Grant the request. This will be the routine action taken on the vast majority of requests. The authorized designee should work with the requestor in preparing or revising a request so that it may be granted. If the authorized designee has any questions about whether to grant the request, he/she should consult with his/her

administrative supervisor(s) and the Director of Student Activities. When a request has been granted, such action shall be final and the requestor shall be promptly notified.

ii. Ask the Director of Student Activities for a specific additional period of time to continue review of the request. An extension of time will be granted only if it is warranted and will permit a final response on the request to be reached in time to allow the requestor to carry out final arrangements for the proposed expression in the event the request is granted. The authorized designee shall promptly notify the requestor that a request for an additional period of time has been submitted. The Director of Student Activities shall promptly notify the requestor and the authorized designee of his/her decision.

iii. Deny the request because it was not submitted in a timely manner. The authorized designee should take this action only if he/she can document that the time between the filing of the request and the date by which a final response is necessary is so short that adequate review and action cannot be reasonably completed by the University (see Section C.2.).

iv. Recommend that the request be denied or limited based on content considerations (see Section C.3).

If the authorized designee fails to take one of the above actions within six working days of submission of the request, the request shall be deemed granted. For the purpose of calculating the expiration of time deadlines specified in this policy statement, weekend, official University holidays, and the day that a request, recommendation, or report is received are not counted. For example, if a request is received on Monday, the authorized designee must take one of the specified actions no later than Tuesday of the following week in order to meet the six day deadline.

d. No final arrangements or advertising shall be made for the proposed expression prior to the granting of the request for the use of the facility or area.

## 2. Limitations Based Upon Time, Place or Manner Considerations

a. If a request is denied or limited based on time, place or manner considerations, or for failure to submit a timely request, the requestor shall be promptly informed of such a decision. A written statement of the reason(s) for the denial or limitations shall be provided upon request.

b. The requestor may appeal denials or limitations by filing a written statement with the Director of Student Engagement. The statement shall set forth the reason(s) for appealing the denial or limitation. With the assistance of an Ad Hoc committee, the Director of Student Engagement will hear all appeals and render a final decision no later than five working days from the filing of the appeal. Every

reasonable effort will be made to reach a decision in time to allow the requestor to carry out final arrangements for the proposed expression in the event should the decision be made to reverse the authorized designee and grant the request.

### 3. Denials or Limitations Based Upon Content Considerations

- a. An authorized designee may recommend that a request be denied or limited on the basis of content only if it is determined, after appropriate inquiry (including consultation with University Legal Counsel), that the proposed expression is unprotected. In determining whether to make such a recommendation, full and adequate consideration should be given to the educational mission of the university and specifically the responsibility of the University and its officials to actively encourage free and open inquiry by avoiding and resisting limitations of expression. Any such recommendation, and the reasons upon which it is based, shall be stated in writing and delivered to the offices of Vice President of Student Services, and the University President no later than six working days of the submission of the request. If the authorized designee has been granted additional time, such recommendations shall be delivered no later than the last day of the extension period. The authorized designee shall also inform the requestor of the recommendation within the same time period and make arrangements for him/her to receive a copy of the written report and this policy statement.
- b. Upon receipt of the recommendation, the Director of Student Engagement shall convene a hearing. At this hearing, the authorized designee shall have the burden of establishing that the proposed expression is unprotected. The requestor shall have the right to appear at the hearing to present oral and written arguments against the recommendation. The extent to which the authorized designee was guided by the educational mission of the University in arriving at his/her recommendation shall be a relevant and appropriate inquiry at this hearing. Approval or denial of the recommendation will be made no later than five working days from the receipt of the recommendation. The decision will be reported to the University President. Every reasonable effort will be made to reach a decision in time to allow the requestor to carry out final arrangements for the propose expression in the event the University President ultimately decided to grant the request.
- c. No later than three working days from notification by the Vice President for Student Services, the University President shall take one of the following actions:
  - i. Disapprove the recommendation of the authorized designee and direct him/her to grant the request; or
  - ii. Approve the recommendation of the authorized designee and initiate a proceeding in state or federal court to determine the validity of the recommended denial or limitation.

The University President shall also inform the authorized designee, the Vice President of Student Services, and the requestor of his/her action within this same period of time. If the University President approves the recommendation, but fails to initiate a court proceeding within the three day period, the request shall be deemed granted.

d. If the court determined that the recommended denial or limitation would not be valid, then the request shall be granted. Alternatively, a determination that the recommendation is valid shall result in the request being denied or limited.

#### 4. Disclaimers

At a meeting or event where the expression is to occur the user shall publicly make or post a statement to the effect that the views of opinions stated within the context of the expression do not necessarily reflect the views of the Board of Regents, the University, its administration, staff, faculty, student body, or any individual member of these constituencies. Alternately, such a statement may be in advertisements for the meeting or event.

#### 5. Outside Organizations or Individuals

Organizations or individuals not affiliated or connected with the University shall contact the authorized designee for the purpose of requesting the use of any University facility or area. Such requested shall be governed by this policy and other relevant regulations.

### **D. Definitions**

#### a. Authorized Designee

The person or persons who have the authority to schedule the use of a particular campus facility or area.

#### b. Expression

Any communication, discussion, acquisition, manifestation, representation or indication, whether clear or unclear, ambiguous or unambiguous, of attitudes, information, ideas, beliefs, opinions or ideas on any subject by any student, faculty or other member of the academic community, outside speaker, process or instance of representation in any media. The media of expression may include, but shall not be limited to speech, publications, literature or documents, art, cinema, theater or music, electronic emission, audio or visual recordings in any medium that combine audible, visible or other sensory expression, whether expressed, transmitted, presented or sponsored individually or by a group.

#### c. Extracurricular

All activities outside the University's instruction and related academic functions.

#### d. Unprotected Speech

The following are currently recognized by the United States Supreme Court as categories of speech or expression which are unprotected and can be barred or limited:

Clear and Present Danger

Preparing a group for imminent lawless action, and steeling it to such action, as opposed to the abstract teaching of the moral propriety or even moral necessity for a resort to force and violence; AND there must not only be advocacy to action, but also a reasonable apprehension of imminent danger to the essential functions and purposes of the University. Such imminent lawless action shall include the following:

- i. the violent overthrow of a government of the United States, the State of Oklahoma, or any political subdivision thereof;
- ii. the willful damage or destruction, or seizure and subversion, of the institution's buildings or other property;
- iii. the forcible disruption of, or interference with, the institution's regularly scheduled classes or other educational functions;
- iv. the physical harm, coercion, intimidation, or other invasion of lawful rights of the Board of Regents, institutional officials, faculty members, staff members or students;  
or
- v. other campus disorder of violent nature.

Fighting Words

Words which by their very utterance inflict injury or are likely to incite an immediate breach of the peace. Personally abusive words, that, when spoken to ordinary persons, are inherently likely to incite immediate physical retaliation.

Obscenity

A description or depiction of sexual conduct that taken as a whole, by the average person, applying contemporary community standards (the "community" shall be comprised of the faculty, staff, and students of OSU-Oklahoma City):

- i. appeals to the prurient interest;
- ii. portrays sex in a clearly offensive way; and
- iii. using a reasonable person standard rather than the contemporary community standard, does not have serious literary, artistic, political or scientific value.

**E. Enabling Clause**

This policy shall become effective upon approval by the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges. In accordance with Article I of the

Rules and Regulations of the Board, the University President has full authority to administer the provisions of this policy statement.

## **VIII. Oklahoma State Policy for All Students and Employees Regarding the Drug-Free Schools and Communities Act**

### **A. Purpose**

The Drug Free Schools and Communities Act, Amendments of 1989 require an institution of higher education certify to the U.S. Department of Education that it has adopted and implemented a program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees in order to remain eligible for federal financial assistance of any kind. This policy is adopted by the Oklahoma State University system to comply with this statutory directive.

### **B. Policy**

As set forth in local, state, and federal laws, and the rules and regulations of the University, OSU-Oklahoma City prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees in buildings, facilities, grounds, or other property owned and/or controlled by the University or as part of University activities.

### **C. Internal Sanctions**

Any student or employee of the University who has violated this prohibition shall be subject to disciplinary action including, but not limited to, suspension, expulsion, termination of employment, referral for prosecution and/or completion, at the individual's expense, of an appropriate rehabilitation program.

### **D. External Sanctions**

Local, state, and federal laws provide for a variety of legal sanctions for the unlawful possession and distribution of illicit drugs and alcohol. These sanctions include, but are not limited to, incarceration and monetary fines.

Federal law provides rather severe penalties for distributing or dispensing, or possessing with the intent to distribute or dispense a controlled substance and penalties of a less severe nature for simple possession of a controlled substance. The type and quantity of the drug, whether the convicted person has any prior convictions, and whether death or previous injury resulted from use of the drug in question (this, however, is not a factor in a case of simple possession) all affect the sentence. For example, if less than 50 kilograms of marijuana are involved and it is your first offense (no prior convictions), then you are subject to imprisonment of not more than 5 years, a fine of \$250,000 or both. If however, 50-100 kilograms of marijuana are involved instead of less than 50, and all other factors are the same as in the preceding example, you are subject to imprisonment of not more than 20 years, unless death or serious injury results from the marijuana use, then you are subject to not less than 20 years or life, a fine of \$1,000,000, or both. While the penalties for simple possession are less severe, the first conviction still carries a sentence of up to a year imprisonment, a fine of at least \$1,000 but not more than \$100,000, or both. With regard to simple possession, the number of convictions makes both the minimum period of imprisonment and fines greater. Under special provisions for possession of crack, a person may be sentenced to a mandatory term of at least 5 years in prison and not more than 20 years, a fine of \$250,000, or both.

Starting July 1, 2000, conviction under Federal or State law involving the possession or sale of a controlled substance shall make a student ineligible to receive any grant, loan, or work assistance beginning with the date of conviction and ending as follows: (1) conviction for possession of a controlled substance: first offense – one year; second offense – two years; third offense – indefinite (2) sale of a controlled substance: first offense – two years; second offense – indefinite. Students may regain eligibility earlier than specified by satisfactorily completing a rehabilitation program or other requirement as specified in the regulations.

State Law provides similar penalties with regard to the simple possession, distribution, or possession with the intent to distribute a controlled dangerous substance. Simple possession of marijuana is a misdemeanor and carries a punishment of up to one year in the county jail. A second or subsequent conviction for simple possession of marijuana carries two – ten years in the state penitentiary. Possession of marijuana with the intent to distribute is a felony and carries a punishment of two years to life in the penitentiary and a fine of up to \$20,000 for the first conviction. A second or subsequent conviction carries a punishment of four years to life in prison and a fine of up to \$40,000. Depending upon the quantity involved, a convicted individual could be sentenced under the Oklahoma “Trafficking in Illegal Drugs Act” which provides for much harsher penalties.

In addition, state law provides that possession of, or possession with intent to consume, 3.2 beer by someone under 21 years old in a public place is a misdemeanor punishable by a fine not to exceed \$1000. or by appropriate community service not to exceed 20 hours. Possession of other alcoholic/intoxicating beverages by someone under 21 years old in a public place is a misdemeanor punishable by imprisonment in the county jail for not more than 30 days, a fine not to exceed \$100., or both. There are also state laws concerning driving under the influence of alcohol and using a false driver’s license to obtain 3.2 beer or other alcoholic beverages. Depending upon the number of previous convictions, or gravity of the circumstances you may be convicted of a felony or misdemeanor for such an offense. It is most likely that you will also forfeit your driving privileges in the event you are convicted of such an offense.

There are also Oklahoma City laws similar to those described above. If drugs are involved the city will, most likely, defer to the state or federal authorities because their penalties are more severe. If alcohol is involved, you may be convicted of violating both local and state law and punished according to both laws. Courts do not excuse individuals convicted of these offenses from a prison sentence to go to college or work. A conviction for such an offense is a serious blemish on your record which could prevent you from entering many careers or obtaining certain jobs.

The above-referenced examples of penalties and sanctions are based on the relevant laws at the time of adoption of this policy statement. Such laws are, of course, subject to revision or amendment by way of the legislative process.

## **E. Health Risks**

Alcohol and other drug use can represent serious threats to health and quality of life. Alcohol and other drug use increase the risk of accidents, birth defects, HIV/AIDS, and other disease. Combining drugs may lead to unpredictable effects and many prescription and nonprescription drugs are potentially addictive and dangerous. Major categories of drugs and probable effects are below.

Alcohol impairs judgment and coordination, and in many persons causes a greater likelihood of aggressive and/or violent behavior. Even short-term use may cause respiratory depression and, when consumed by pregnant women, may cause irreversible physical and mental abnormalities in newborns (fetal alcohol syndrome) or even death. Long-term use may lead to irreversible physical and mental impairment, including liver disease, heart disease, cancer, ulcers, gastritis, delirium tremens, and pancreatitis. Alcohol interacts negatively with more than 150 medications. Driving while under the influence of alcohol is particularly dangerous and is a major cause of traffic-related deaths.

Barbiturates (depressants, Quaaludes, Valium, Zanax, etc.) depress central nervous, cardiovascular, and respiratory functions. Barbiturate use may lower blood pressure, slow reactions, and distort reality. Convulsions, coma, and death are outcomes associated with barbiturate use. Combining the consumption of barbiturates with alcohol or 3.2 beer is especially dangerous.

Cocaine/Crack are powerful central nervous system stimulants that constrict blood vessels, dilate pupils, increase blood pressure, and elevate heart rate. Cocaine use may induce restlessness, irritability, anxiety, paranoia, seizures, cardiac arrest, respiratory failure, and death. Cocaine is extremely addictive, both psychologically and physically. Great risk exists whether cocaine is ingested by inhalation (snorting), injection, or smoking. Compulsive cocaine use may develop even more rapidly if the substance is smoked, and smoking crack cocaine can produce particularly aggressive paranoid behavior in users.

Date Rape Drugs (Rohypnol, rophies, roofies, GBH, Ketamine, etc.) may incapacitate a person, particularly when used with alcohol. Rohypnol and GHB (gamma-hydroxybutyrate) are characterized as "date rape" drugs because they incapacitate victims, thereby increasing vulnerability to sexual assault and other crime. Sedation, relaxation, and amnesia are associated with Rohypnol use. Rohypnol may be psychologically and physically addictive and can cause death if mixed with alcohol or other depressants. GHB usage may result in coma and seizures and, when combined with methamphetamine, appears to cause an increased risk of seizure. Combining use with other drugs such as alcohol can result in nausea and difficulty in breathing. GHB may also produce withdrawal effects, including insomnia, anxiety, tremors, and sweating. Ketamine may induce feelings of near-death experiences.

Ecstasy (S, Adam, MDMA, XTC, etc) has amphetamine-like and hallucinogenic properties. Its chemical structure is similar to other synthetic drugs known to cause brain damage. Ecstasy use may cause psychological difficulties, including confusion, depression, sleep problems, drug craving, severe anxiety, paranoia and even psychotic episodes. Similar difficulties may occur weeks after taking MDMA. Physical symptoms such as increases in heart rate and blood pressure may result from use of such substances. Other physical symptoms include muscle tension, blurred vision, nausea, rapid eye movement and involuntary teeth clenching.

Hallucinogens (acid, PCP, LSD, psilocybin [mushrooms]) are among the most potent mood-changing chemicals and may produce unpredictable effects that may impair coordination, perception, and cognition. Some LSD users experience flashbacks, often without warning, with the user having taken the drug again. Violence, paranoia, delusions, hallucinations, convulsions, coma, cardiac arrest, and respiratory failure may result from hallucinogen use.

Marijuana (pot, grass, hash, cannabis sativa, etc.) may impair memory, attention, coordination, and learning. Short term effects of smoking marijuana may include problems with memory, learning, distorted perception, difficulty in thinking, and problem solving, loss of coordination, increased heart

rate, anxiety, and panic attacks. Persons who smoke marijuana regularly may have many of the same respiratory problems as tobacco smokers, including daily cough and phlegm, chronic bronchitis, and more frequent chest colds. Because users of marijuana deeply inhale and hold marijuana smoke in their lungs, they incur a higher risk of getting lung cancer.

Narcotics (heroin, pain medication [Demerol, Percodan, Lortab, etc.]) may produce temporary euphoria followed by depression, drowsiness, cognitive impairment and vomiting. Narcotic use may cause convulsions, coma, and death. Tolerance and dependence tend to develop rapidly. Using contaminated syringes to inject drugs may result in contracting HIV and other infectious diseases such as hepatitis.

Nicotine (tobacco, cigarettes, cigars, chewing tobacco, nicotine chewing gum and patches) is highly addictive, and according to the Surgeon General, is a major cause of stroke and is the third leading cause of death in the United States. Over time, higher levels of nicotine must be consumed in order to achieve the same effect. Nicotine consumption results in central nervous system sedation and, after initial activation, may cause drowsiness and depression. If women smoke cigarettes and also take oral contraceptives, they are more prone to cardiovascular and cerebro-vascular diseases than are other smokers. Pregnant women who smoke cigarettes run an increased risk of having stillborn or premature infants or infants with low birth weight.

Steroids (anabolic-androgenic) may permanently damage liver, cardiovascular, and reproductive systems. Possible side effects include liver tumors, cancer, jaundice, fluid retention, and hypertension. In men, steroids may cause shrinking of testicles, reduced sperm count, infertility, baldness, breast development and increased risk for prostate cancer. In women, steroid use may cause growth of facial hair, male-pattern baldness, menstrual changes, enlarged clitoris, and deepened voice.

Stimulants (amphetamine, methamphetamine, speed, crystal, crank, Ritalin, caffeine, various over-the-counter stimulants and diet aids) are powerful central nervous system stimulants that may increase agitation, physical activity, and anxiety. Stimulants may decrease appetite, dilate pupils, and cause sleeplessness. Dizziness, higher blood pressure, paranoia, mood disturbance, hallucination, dependence, convulsions, and death due to stroke or heart failure may also result from use.

Reference: National Institute on Drug Abuse, National Institutes of Health, [www.nida.nih.gov](http://www.nida.nih.gov)

#### F. Alcohol/Drug Treatment Resources

Center for Substance Abuse Treatment Information and Referral Line  
1-800-662-HELP (4357)

Cocaine Helpline  
1-800-COCAINE (262-2563)  
[www.drughelp.org](http://www.drughelp.org)

National Council on Alcoholism and Drug Dependence Hope Line  
1-800-622-2255, 24 hours a day

National Institute on Drug Abuse  
National Institute of Health  
888-NIH-NIDA (toll-free)

[www.nida.nih.gov](http://www.nida.nih.gov)

Reach-Out Hotline

1-800-522-9054

Alcohol, drug, domestic violence, sexual assault, rape crisis, intervention and mental health referral.

## **IX. Hazing**

The following is an excerpt of an amendment to 21 O.S. 1981, Section 852. If you have any questions regarding this law, call the Student Activities Office at 945-3378.

“Section 3, NEW LAW.” A new section of law to be codified in the Oklahoma Statutes as Section 1190 of Title 21, unless there is created a duplication in numbering reads as follows:

- A. No student organization or any person associated with any organization sanctioned or authorized by the governing board of any public or private school or institution of higher education in this state shall engage or participate in hazing.
- B. Any hazing activity described in subsection F of this section upon which the initiation or admission into or affiliation with an organization sanctioned or authorized by a public or private school or by any institution of higher education in this state is directly or indirectly conditioned shall be presumed to be a forced activity, even if the student willingly participates in such activity.
- C. Any copy of the policy or the rules and regulations of the public or private school or institution of higher education which prohibits hazing shall be given to each student enrolled in the school or institution and shall be deemed to be part of the bylaws of all organizations operating at the public school or the institution of higher education.
- D. Any organization sanctioned or authorized by the governing board of a public or private school or of an institution of higher education in this state which violates subsection A of this section, upon conviction, shall be guilty of a misdemeanor, and may be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500.00) and the forfeit for a period of not less than one year of the rights and privileges of being an organization organized or operating at the public or private school or at the institution of higher education.
- E. Any individual convicted of violating the provisions of subsection A of this section shall be guilty of a misdemeanor, and may be punishable by imprisonment for not to exceed ninety (90) days in the county jail, or by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.
- F. For purposes of this section:
  - 1. “Hazing” means an activity which recklessly or intentionally endangers the mental health or physical health or safety of a student for the purpose of initiation or admission into or affiliation with any organization operating subject to the sanction of the public or private school or of any institution of higher education in this state.
  - 2. “Endanger the physical health” shall include but not be limited to any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statute, non-intoxicating beverage as defined in Section 163.2 of Title 37 of the Oklahoma Statute, drug controlled dangerous substance

or other substance, or any other forced physical activity which could adversely affect the physical health or safety of the individual.

3. "Endanger the mental health" shall include any activity, except those activities authorized by law, which would subject the individual to extreme mental stress, such as prolonged sleep deprivation, forced prolonged exclusion from social contact, forced conduct which could result in extreme embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual.

Section 4. This act shall become effective July 1, 1990.

Section 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 30<sup>th</sup> day of April 1990.

Passed the Senate the 17<sup>th</sup> day of April 1990.

Approved by the Governor of the State of Oklahoma the 2<sup>nd</sup> day of May 1990, at 11:09A.M.

## **X. Gender Discrimination and Sexual Harassment**

### **Oklahoma State University Policy and Procedures**

<b>GENDER DISCRIMINATION/SEXUAL HARASSMENT POLICY &amp; TITLE IX GRIEVANCE PROCEDURE</b>	<b>1-0702 GENERAL UNIVERSITY Oklahoma City Campus April 2005</b>
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#### **1.01 GENERAL STATEMENT OF POLICY**

It is the policy of Oklahoma State University (OSU) that unlawful gender discrimination in any form, including sexual harassment of faculty and staff, or other forms of gender discrimination as referenced by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e (Title VII), and Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 (Title IX), is prohibited in the workplace and in the recruitment, appointment, and advancement of employees. Gender discrimination of students, including sexual harassment, as referenced by Title IX, is prohibited in and out of the classroom and in the evaluation of students' academic or work performance. This policy is in keeping with the spirit and intent of various federal guidelines which address the issue of fair employment practices, ethical standards and enforcement procedures.

The University encourages victims to report instances of gender discrimination prohibited by Title IX or Title VII, including but not limited to, sexual assault or other sex offenses, either forcible or nonforcible in nature. In addition to internal grievance procedures, victims of criminal gender discrimination (e.g., sexual assault or harassment) are encouraged to file complaints or reports with the Office of Safety and Security 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 Office of Safety and Security is available to assist victims in filing reports with other law enforcement agencies.

All students, members of the faculty, and non-faculty staff personnel are required to comply with the policy and procedures outlined to address complaints about gender discrimination, sexual harassment and sexual assault. In addition to the procedures outlined in this policy statement, discrimination and harassment complaints may be filed with the U.S. Equal Employment Opportunity Commission (involving employment) or U.S. Department of Education, Office for Civil Rights (involving education programs or activities). Any complaint of gender discrimination or sexual harassment filed under the University's policy shall be processed even if the complainant also files a complaint or suit with an outside agency, U.S. Equal Employment Opportunity Commission, or U.S. Department of Education, Office for Civil Rights. Retaliation against anyone who makes a complaint or participates in the complaint process will not be tolerated.

The University is committed to providing an environment of study and work free from gender discrimination and sexual harassment as prohibited by Title VII and Title IX, and to insuring the accessibility of appropriate grievance procedures for addressing all complaints regarding gender discrimination and sexual harassment, including sexual assault. The University reserves the authority to independently deal with gender discrimination, sexual harassment, and sexual assault

issues whenever becoming aware of their existence, regardless of whether informal or formal complaints have been lodged by persons complaining of such issues.

Members of the University community holding positions of authority involving the legitimate exercise of power over others have a particular responsibility to be sensitive to that power relationship. Supervisors, in their relationships with subordinates, and faculty, in their relationships with students, need to be aware of potential conflicts of interest and the possible compromise of their evaluative capacity. Because there is an inherent power difference in these relationships, the potential exists for the less powerful persons to

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perceive a coercive element in suggestions regarding activities outside those appropriate to the professional relationship. It is the responsibility of faculty and staff to behave in such a manner that their words or actions are not sexually coercive, abusive, or exploitative.

Sexual harassment also can involve relationships among equals such as when repeated advances, demeaning verbal behavior, or offensive physical contact interfere with an individual's ability to work and study productively. The creation or condoning of hostile working or educational environments will not be tolerated and students and employees at all levels are subject to potential disciplinary action if engaged in such actions.

The University will (1) respond to every complaint of gender discrimination, sexual harassment, or sexual assault reported, (2) take action to provide remedies when gender discrimination, sexual harassment, or sexual assault is discovered, (3) impose appropriate sanctions on offenders in a case-by-case manner, and (4) protect the privacy of all those involved to the extent it is possible. The above actions will apply to the extent permitted by law or where personal safety is not an issue.

## **1.02 INFORMATION AND ASSISTANCE**

Any individual who believes he/she may have experienced gender discrimination, including sexual harassment, or who believes that he/she has observed such actions taking place, may receive information and assistance regarding the University's policies and responsive processes from any of the following offices:

1. Director of Human Resources (Affirmative Action)/Title IX Coordinator  
Admin. Building - 2<sup>nd</sup> Floor-Human Resource Office 405-945-3297
2. Vice President for Finance and Operations  
Admin. Building – 2<sup>nd</sup> Floor 405-945-8631
3. Vice President for Student Services/Judicial Affairs Coordinator  
Student Center Building – 1<sup>st</sup> Floor 405-945-3204
4. Vice President for Academic Affairs  
Admin. Building – 2<sup>nd</sup> Floor 405-945-3376

If an apparent conflict of interest prevents use of the assistance of the above offices, the person complaining of gender discrimination, sexual harassment, or sexual assault may request assistance directly from the Office of the President, Admin. Building-2<sup>nd</sup> Floor (405-945-3230).

### **1.03 GENDER DISCRIMINATION AND SEXUAL HARASSMENT DEFINITIONS**

"Gender discrimination" is unequal or disadvantageous treatment of an individual or group of individuals based on gender. Sexual harassment is a form of illegal gender discrimination. "Sexual harassment," as prohibited under federal and state law and University policy, is defined as unwelcome conduct of a sexual nature, and may include unwelcomed sexual advances, sexual assaults, or requests for sexual favors. This and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- A. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;
- B. submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual; or
- C. such conduct is sufficiently serious that it has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment. Harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject matter or curriculum, and this policy shall not abridge academic freedom or the University's educational mission.

### **1.04 EXAMPLES OF SEXUAL HARASSMENT**

It is not possible to exhaustively list all examples of conduct which can constitute gender discrimination or 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:

#### **A. 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.

## B. 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.

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.

## C. 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.

Sexual assault, coerced sexual intercourse or other sexual contact.

### **1.05 SUPERVISORY RESPONSIBILITY**

Prohibited gender discrimination, including sexual harassment, may result not only from situations between supervisors and subordinate employees, or between faculty and students, but also between employees who have no direct or indirect supervisory relationship with one another, as well as between students.

University officials in supervisory relationships with employees or students are charged with the responsibility of responding immediately and appropriately to correct any situations which create a hostile working or educational environment within an administrative unit under their supervision. Such officials include, but are not necessarily limited to: unit heads, academic administrators, faculty members engaged in teaching or in supervising student workers, and

intercollegiate athletic administrators and coaching staff members. Every University faculty member or administrator is responsible for promptly reporting, in writing, incidents of gender discrimination and sexual harassment (including sexual assault) that come to their attention or which they observe, to the Title IX Coordinator.

Such officials who are concerned about whether such a situation is developing, or who desire assistance in appropriately responding to such a situation may also seek assistance from the Title IX Coordinator. Any such official who fails to appropriately respond to a hostile working or educational environment, to seek assistance when a hostile working or educational environment situation develops which reasonably should have been perceived by the official, or to promptly report such matters to the Title IX Coordinator, may be subject to disciplinary action.

## **1.06 RETALIATION**

The University will not tolerate retaliation against persons who brings a complaint of unlawful gender discrimination, sexual harassment or sexual assault, whether such complaint is brought internally or with an external agency. A student, faculty, or staff member 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 dismissal from the University.

## **2.01 GRIEVANCE PROCEDURES**

All persons who believe that they have been subjected to prohibited gender discrimination or sexual harassment are encouraged to seek assistance from any of the offices listed above (§1.02), to directly report such conduct to appropriate supervisory officials, or to directly report such conduct to the Title IX Coordinator. In instances involving allegations of gender discrimination or sexual harassment engaged in by students, the Title IX Coordinator will refer such matters to the Judicial Affairs Coordinator for review and other processing. The Judicial Affairs Coordinator shall report the results of all such referrals to the Title IX Coordinator.

As referenced above in Section 1.05, such appropriate supervisory officials include, but are not necessarily limited to: unit heads, academic administrators, faculty members engaged in teaching or in supervising student workers, and intercollegiate athletic administrators and coaching staff members.

Persons who believe that they have been subjected to prohibited gender discrimination or sexual harassment may seek either informal or formal University evaluation and response to their concerns. However, in order for disciplinary action to be taken against a University employee or against a student, it may be necessary for a formal complaint to be filed, and that procedure may require the person complaining about such behavior to cooperate with University officials on a formal basis. Independent of a formal complaint, the University is nevertheless responsible under Title IX to investigate known concerns of gender discrimination or harassment and take steps to prevent its recurrence and correct any discriminatory effects arising therefrom.

In addition to this Policy, Oklahoma State University has in place the following general policies and procedures for dealing with concerns of unfair and/or illegal treatment:

"Policy Statement to Govern Appointments, Tenure, Promotions, and Related Matters of the Faculty of Oklahoma State University-Oklahoma City

OSU P&P Letter No. 2-0901, "Informal Ombudsman Review Of Qualified Faculty Employment Issues, And Informal Voluntary Mediation Of Qualified Faculty Employment Issues"

OSU P&P Letter No. 3-0710, "Resignations And Dismissals For Classified Staff"

OSU P&P Letter No. 3-0726, "Employment, Resignation, Suspensions, And Dismissals For" Administrative And Professional Staff

OSU P&P Letter No. 3-0747, "Informal Ombudsperson Review And Informal Voluntary Mediation Of Qualified Staff Employment Issues"

OSU P&P Letter No. 3-0746, "Grievances and Appeals for A/P and Classified Staff," "Student Rights and Responsibilities Governing Student Behavior, located in the Student Handbook.

OSU P&P Letter No. 2-0823, "Student Discrimination Grievances" (non-gender discrimination complaints)

Students who are determined to have violated the University's policies prohibiting unlawful gender discrimination, including but not limited to sexual harassment or sexual assault, may be subject to the following disciplinary actions, Disciplinary Sanctions, of the University's policy "Student Rights and Responsibilities Governing Student Behavior": Oral or Written Reprimand; Restriction on Privileges; Voluntary Project Assignment, Community Service or Gender Discrimination Education; Restitution for Loss, Damage, or Injury; Enrollment Hold; Cancellation of Enrollment; Graduation Hold; Conduct Probation; Disciplinary Suspension; or Disciplinary Expulsion.

Non-faculty employees who are determined to have violated the University's policies prohibiting unlawful gender discrimination, including but not limited to sexual harassment or sexual assault, may be subject to disciplinary actions under OSU P&P Letter Nos. 3-0710 or 3-0726, as applicable, including but not limited to: Oral or Written Reprimand; Restriction on Privileges; Voluntary Project Assignment, Community Service or Gender Discrimination Education; Restitution for Loss, Damage, or Injury; Placement on Structured Plan of Improvement; Loss of Pay or Rank; Suspension With or Without Pay; or Dismissal.

Faculty employees who are determined to have violated the University's policies prohibiting unlawful gender discrimination, including but not limited to sexual harassment or sexual assault, may be subject to disciplinary actions under the January 21, 2000 "Policy Statement to Govern Appointments, Tenure, Promotions, and Related Matters of the Faculty of Oklahoma State University-Oklahoma City." Such actions, under Sections 1.12 and Appendix C of the Policy Statement, can include: Simple Admonitions; Formal Sanctions (which can include, but are not limited to, written reprimands, required participation in counseling and/or corrective programs, restrictions on use of University privileges, resources, and services); or Dismissal

## **2.02 Resolution Options**

A person who believes that he or she has been subjected to gender discrimination or sexual harassment and seeks to take action may use the informal resolution and/or disciplinary processes listed above, or the review processes set forth in this policy, to seek review and redress of the matter. The informal resolution and formal complaint resolution processes described in this and other related University policies are not mutually exclusive. However, informal review and

formal complaint review processes cannot be used at the same time, and, to conserve University resources and to prevent redundancy, the University may consolidate requests for informal review and/or formal complaints. No disciplinary investigation procedures that may be pursued as the result of gender discrimination and/or sexual harassment, will be applied to, or take the place of, investigations (informal review or formal complaint) of complaints of discrimination based on gender, including sexual harassment, that are processed pursuant to this gender discrimination grievance procedure.

In any formal resolution proceeding, the complainant possesses the right to present information relevant to his or her complaint to the appropriate investigating official. In addition, the complainant(s) and individual(s) accused are afforded the right to be advised by an individual of her or her choice throughout the formal resolution proceeding.

### **2.03 Informal Resolution Procedures**

A. Informal resolution may be an appropriate choice when the alleged conduct involved is not of a serious or repetitive nature and disciplinary action is not required to remedy the situation. Many times, issues of concern are due to lack of communication or awareness that certain conduct is offensive and simply talking with the person engaging in the conduct in question can resolve the matter. Persons complaining of gender discrimination or sexual harassment may therefore desire to attempt to resolve the problem informally by discussing the matter with the person who is allegedly engaging in prohibited conduct. No formal investigation is involved in the informal resolution process.

B. Such informal resolution requests should be made as soon as possible, but in all cases within 90 days of the date of the alleged incident. Seeking informal resolution of a matter will not toll the 90-day time period for filing a formal complaint, as set forth below.

C. If informal discussion with a supervisory official is desired, the concerns ordinarily should first be directed to the immediate supervisor of the employee, or the Judicial Affairs Coordinator for a student, accused of engaging in gender discrimination or sexual harassment. However, if the person complaining of gender discrimination or sexual harassment is uncomfortable discussing the matter with such immediate supervisor or Student Conduct Officer, if the person accused of engaging in prohibited conduct is the supervisor of the person lodging concerns or is the Judicial Affairs Coordinator, or if the supervisor or Judicial Affairs Coordinator has previously been made aware of the conduct at issue and is not believed to have adequately responded to the matter, the person complaining of gender discrimination or sexual harassment may discuss the matter with the next highest level of supervisor. In all cases, such concerns may also be discussed at any time with the Director of Affirmative Action/Title IX Coordinator.

Methods for informal resolution may include, but are not limited to: coaching the person on how to directly address a situation which is causing a problem; mediating the dispute with the parties; aiding in the modification of a situation in which the offensive conduct occurred; arranging a documented meeting with the alleged offender that involves a discussion of the requirements of the University's policies on gender discrimination and sexual harassment; or providing education with reference to the issues of gender discrimination, sexual harassment or sexual assault.

#### **D. Reporting and Documentation Requirements**

Supervisory officials at all levels who engage in informal resolution of complaints of alleged gender discrimination, including sexual harassment, are required to promptly report such allegations, and the responsive measures taken, in writing, to the University's Title IX

Coordinator. Such reports shall be made within two (2) working days of resolution of the complaint. Such officials include, but are not necessarily limited to: unit heads, academic administrators, faculty members engaged in teaching or in supervising student workers, and intercollegiate athletic administrators and coaching staff members. The Judicial Affairs Coordinator shall also make such reports to the Title IX Coordinator.

The University shall document all informal resolutions. Such documentation shall be retained by the Title IX Coordinator for at least three (3) years from the date of conclusion of the informal resolution procedure and will be kept confidential to the extent permitted by law. Informal resolution attempts shall not be considered a precondition for the filing of a written grievance.

#### **2.04 Complaints Against Students -Formal Resolution Procedures**

A. An investigation by the Judicial Affairs Coordinator responding to allegations of gender discrimination or sexual harassment and leading to possible disciplinary action against a student will be initiated if a timely and complete grievance is filed with the Judicial Affairs Coordinator. Such an investigation shall follow the procedures set forth in Sections III through VIII of the OSU Student Rights and Responsibilities policy, except as such policies are specifically augmented in this Policy. Such a grievance must be filed, in writing, with the Judicial Affairs Coordinator within 90 calendar days of the occurrence of the alleged violation. In extraordinary circumstances, the time frame for such filing may be extended by the Judicial Affairs Coordinator to an additional 90-day time period.

B. Upon receipt of such a complaint, the Judicial Affairs Coordinator shall (1) notify the complainant within two working days, in writing, of receipt of the complaint and of the actions the Officer will take with the complaint, and (2) engage in a preliminary review of the matter to determine whether disciplinary procedures should be initiated in response to the complaint as called for in the Student Rights and Responsibilities policy. Such review, at the minimum, will normally involve meeting personally with the individual(s) filing the complaint, with the individual(s) accused of violations of University policy, and any relevant witnesses to the alleged actions at issue, together with reviewing any documentary evidence relevant to the matter. Such a determination shall ordinarily be made within ten (10) working days of the receipt by the Judicial Affairs Coordinator of the complaint. In extraordinary circumstances, the Judicial Affairs Coordinator has the authority to extend this 10-day time period. In such instances, the Judicial Affairs Coordinator shall notify the complainant and the respondent of such, and the date when the preliminary determination will be made.

C. If it is determined by the Judicial Affairs Coordinator that the University will not proceed with a disciplinary proceeding, the Judicial Affairs Coordinator will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender. The notification letter will also include a statement informing the complainant that, within ten (10) working days of the notification, he or she may appeal the determination not to proceed to the Vice President for Student Affairs. The request for appeal must be a signed, written document articulating why the decision to dismiss the complaint is believed to be in error.

The Vice President for Student Affairs shall respond within ten (10) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision is overturned, the complaint is sent back to the Judicial Affairs Coordinator for investigation in accordance with the procedures outlined below.

D. If it is determined that the University will proceed with a formal disciplinary proceeding, the Judicial Affairs Coordinator will give the complainant and the respondent notification of such determination as called for in Sections III through VIII of the Student Rights and Responsibilities policy. If a student conduct committee is to be convened to consider the matter under review, such hearing shall be scheduled to take place within fifteen (15) working days of such notification. In extraordinary circumstances, the Judicial Affairs Coordinator has the authority to extend this 15-day time period. In such instances, the Student Conduct Officer shall notify the complainant and the respondent of such, and the date when the hearing will be held. The hearing shall follow the procedures set forth in Sections III through VIII of the Student Rights and Responsibilities policy and the complainant and respondent shall have equal rights in all phases of the hearing and appeal processes set forth in Sections III through VIII of the Student Rights and Responsibilities policy.

## **2.05 Complaints Against Non-Faculty Employees -Formal Resolution Procedures**

A. Complaints and grievances alleging gender discrimination or sexual harassment against non-faculty staff personnel may be initiated either through the University's general employee grievance/disciplinary policies located in P&P Letter No. 3-0710, "Resignations And Dismissals For Classified Staff," or P&P Letter No. 3-0726, "Employment, Resignation, Suspensions, And Dismissals For Administrative And Professional Staff," in accordance with the status of the employee, or through the Title IX Coordinator. Such complaints filed with the Title IX Coordinator shall be transferred by the Title IX Coordinator to the appropriate unit administrator for further review and action within two (2) working days of receipt of the complaint.

An investigation in response to a complaint against a non-faculty staff employee shall follow the procedures set forth in the OSU policies governing non-faculty grievances or disciplinary actions located in P&P Letter No. 3-0710, "Resignations And Dismissals For Classified Staff," or P&P Letter No. 3-0726, "Employment, Resignation, Suspensions, And Dismissals For Administrative And Professional Staff," in accordance with the status of the employee, except as such policies are specifically augmented in this Policy.

B. A complaint alleging gender discrimination or sexual harassment allegedly committed by a non-faculty staff employee may be filed, in writing, with either the appropriate unit administrator or with the Title IX Coordinator within 90 calendar days of the occurrence of the alleged violation. In extraordinary circumstances, the time frame for such filing may be extended by the unit administrator or the Title IX Coordinator to an additional 90-day time period.

C. Unit administrators who receive complaints alleging gender discrimination or sexual harassment allegedly committed by non-faculty staff employees, shall notify the Director of Human Resources/Title IX Coordinator of their receipt of such a complaint within two (2) working days of receiving the complaint.

D. Upon receipt of a grievance or complaint against a non-faculty staff employee, the Director of Human Resources/Title IX Coordinator, or the unit administrator, as appropriate, shall (1) notify the complainant within two working days, in writing, of receipt of the complaint and of the actions that will be taken with the complaint, and (2) engage in a preliminary review of the matter to determine whether formal grievance or disciplinary procedures should be initiated in response to the complaint. Such a determination shall ordinarily be made within ten (10) working days of the receipt by the unit administrator or Division of Human Resources of the complaint. In extraordinary circumstances, the Director of Human Resources or appropriate unit administrator has the authority to extend this 10-day time period. In such instances, the

complainant and the respondent shall be notified of such, and the date when the preliminary determination will be made.

E. Where formal grievance proceedings are requested due to allegations of gender discrimination or sexual harassment by non-faculty employees, if it is determined by the Director of Human Resources that the University will not proceed with a formal grievance proceeding, the Director of Human Resources will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender. The notification letter will also include a statement informing the complainant that, within ten (10) working days of the notification, he or she may appeal the determination not to proceed to the Vice President for Finance and Operations. The request for appeal must be a signed, written document articulating why the decision to dismiss the complaint is believed to be in error.

The Vice President for Finance and Operations shall respond within ten (10) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision is overturned, the complaint is sent back to the Director of Human Resources for action in accordance with the procedures outlined in P&P Letter No. 3-0746, "Grievances And Appeals For Administrative/Professional And Classified Staff".

F. Where formal disciplinary action is requested due to allegations of gender discrimination or sexual harassment by non-faculty employees, if it is determined by the unit administrator that the University will not proceed with a formal disciplinary action, the unit administrator will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender.

The notification letter will also include a statement informing the complainant that, within ten (10) working days of the notification, he or she may appeal the determination not to take disciplinary action to the Vice President charged with supervision over the unit. The request for appeal must be a signed, written document articulating why the decision to dismiss the complaint is believed to be in error.

The Vice President shall respond within ten (10) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision is overturned, the complaint is sent back to the unit administrator for action in accordance with the procedures outlined in P&P Letter No. 3-0710, "Resignations And Dismissals For Classified Staff," or P&P Letter No. 3-0726, "Employment, Resignation, Suspensions, And Dismissals For Administrative And Professional Staff," in accordance with the status of the employee.

G. If it is determined that disciplinary action will be taken in response to the complaint, the unit administrator will proceed with such action, following P&P Letter No. 3-0710, "Resignations And Dismissals For Classified Staff," or P&P Letter No. 3-0726, "Employment, Resignation, Suspensions, And Dismissals For Administrative And Professional Staff," in accordance with the status of the employee, relating to imposing disciplinary action against non-faculty employees. The unit administrator shall give the complainant and the respondent notification of such determination. Such action and notification shall normally be concluded within fifteen (15) working days of the receipt by the unit administrator of the complaint. In extraordinary circumstances, the unit administrator has the authority to extend this 15-day time period. In such instances, the unit administrator shall notify the complainant and the respondent of such, and the date when the disciplinary process will be concluded.

## **2.06 Complaints Against Faculty Employees -Formal Resolution Procedures**

A. The University's policies for formal complaints against members of the faculty are set forth in the "Policy Statement to Govern Appointments, Tenure, Promotions, and Related Matters of the Faculty of Oklahoma State University" (January 21, 2000) ("the Policy Statement"). A grievance of gender discrimination or sexual harassment allegedly committed by members of the faculty may be initially filed with the Title IX Coordinator or the appropriate academic unit administrator. If such complaints are filed with the Title IX Coordinator, such complaints shall be transferred for review and action by the Title IX Coordinator to the appropriate academic unit administrator within two (2) working days of receipt of such complaint, with a copy transmitted to the Vice President for Academic Affairs. Within two (2) working days of the academic unit administrator's receipt of the complaint, the administrator shall notify the complainant, in writing, of receipt of the complaint and of the actions the academic unit administrator will take with the complaint.

B. In instances not involving the possible dismissal of a faculty member due to alleged gender discrimination or sexual harassment, the appropriate academic unit administrator (or substitute academic administrator appointed by the Vice President for Academic Affairs as authorized in the Policy Statement) shall review the complaint and take responsive action as deemed appropriate normally within thirty (30) working days, following due process provisions as set forth in the Policy Statement.

C. Where formal disciplinary action not involving possible dismissal is requested due to allegations of gender discrimination or sexual harassment by a faculty member, if it is determined by the unit administrator that the University will not proceed with a formal disciplinary action, the unit administrator will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender. The notification letter will also include a statement informing the complainant that, within ten (10) working days of the notification, he or she may appeal the determination not to take disciplinary action to the Division Head charged with supervision over the unit. The request for appeal must be a signed, written document articulating why the decision to dismiss the complaint is believed to be in error.

The Division Head shall respond within ten (10) working days of receipt of the appeal. If the decision not to take disciplinary action is upheld, that decision is final. If the decision is overturned, the complaint is sent back to the unit administrator for action in accordance with the procedures outlined in the University's disciplinary procedures for faculty.

In instances involving the possible dismissal of a faculty member due to alleged gender discrimination or sexual harassment, the procedures set forth in the General Termination Procedures of the Policy Statement shall be followed.

## **2.07 Formal Resolution Reporting and Documentation Requirements**

Officials taking action via formal disciplinary or grievance proceedings (whether involving student, non-faculty staff, and members of the faculty) in response to complaints of alleged gender discrimination or sexual harassment are required to report such actions, in writing, to the University's Title IX Coordinator. Such reports shall be made within two (2) working days of resolution of the complaint. Such officials include, but are not necessarily limited to: unit heads, academic administrators, faculty members engaged in teaching or in supervising student workers, and intercollegiate athletic administrators and coaching staff members. The Judicial Affairs Coordinator shall also make such reports to the Title IX Coordinator.

The University shall document formal resolutions. Such documentation shall be retained by the Title IX Coordinator for at least three (3) years from the date of conclusion of the formal resolution procedure and will be kept confidential to the extent permitted by law.

### **3.01 Title IX Coordinator Review Authority**

Nothing contained in this Policy shall be construed to limit or qualify the authority of the Title IX Coordinator to independently review any allegations of gender discrimination or sexual harassment on an informal basis and to make such reports as the Title IX Coordinator deems appropriate and necessary to University administrators.

## Appendix A

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 29 CFR Part 1604

DISCRIMINATION BECAUSE OF SEX UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; ADOPTION OF FINAL INTERPRETIVE GUIDELINES AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Amendment to Guidelines on Discrimination Because of Sex.

SUMMARY: On April 11, 1980, the Equal Employment Opportunity Commission published the Interim Guidelines on sexual harassment as an amendment to the Guidelines on Discrimination Because of Sex, 29 CFR part 1604.11, 45 FR 25024. This amendment will reaffirm that sexual harassment is an unlawful employment practice. The EEOC received public comments for 60 days subsequent to the date of publication of the Interim Guidelines. As a result of the comments and the analysis of them, these Final Guidelines were drafted.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Karen Danart, Acting Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, NW, Washington, D.C. 20506, (202) 634-7060.

(Supplementary information concerning comments received on the interim guidelines, and relevant case law is omitted.)

Accordingly, 29 CFR Chapter XIV, Part 1604 is amended by adding § 1604.11 to read as follows: PART 1604-GUIDELINES ON DISCRIMINATION BECAUSE OF SEX  
§ 1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII. The principles involved here continue to apply to race, color, religion or other origin. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when

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

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.

(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

(Title VII, Pub. L. 88-352, 78 Stat. 253 (42 V.S.C. 2000e et seq.) (FR Doc. 80-34981 Filed 11-7-80, 8:45 a.m.) Billing Code 6570-06-M

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