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## **TITLE IX POLICY**

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The Civil Rights & Title IX Process is distinct from any criminal investigation and flows from the college's obligation under Title IX and other equity laws to ensure it is providing a safe and nondiscriminatory environment. College action will not be precluded on the grounds that civil or criminal charges involving the same incident have or have not been filed or that charges have been dismissed or reduced. If a complainant wishes to pursue criminal processes only and wants to waive any College response to the situation, they should make that request to the Title IX Coordinator, and such requests will usually be respected unless the college must act independently to preserve the safety of the Northern Oklahoma College campus community from a threat or future violation of policy.

Northern Oklahoma College prohibits sexual misconduct in any form. Sexual misconduct can occur between persons of the same or different sex/gender. Sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidations, coercion, or manipulation.

NOC must respond when sexual harassment occurs in the school's education program or activity, against a person in the United States. Education programs or activities on-campus and off-campus locations, events, or circumstances over which NOC exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by NOC.

NOC may address sexual harassment affecting its students or employees that falls outside Title IX jurisdiction in any manner the school chooses, including providing supportive measures or pursuing discipline.

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## **AFFIRMATIVE ACTION STATEMENT/NON-DISCRIMINATION**

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Northern Oklahoma College does not discriminate on the basis of race, color, national origin, sex/gender, age, religion, political beliefs or disability in admission to its programs, services or activities, in access to them, in treatment of individuals or in any aspect of their operations. Northern Oklahoma College also does not discriminate in its hiring or employment practices.

This notice is provided as required by Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975 and the Americans with Disabilities Act of 1990.

Questions, complaints or requests for additional information regarding these laws may be forwarded to the designated compliance coordinator: Jason Johnson, Vice President for Student Affairs, 1220 East Grand Avenue, PO Box 310, Tonkawa, OK 74653-0310; telephone 580-628-6240 8 a.m. to 5 p.m. Monday through Friday.

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## **DIVERSITY STATEMENT**

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NOC is committed to developing and interconnected and globally responsive culture of diversity acceptance that includes, but is not limited to, race, ethnicity, color, socioeconomic status, gender and identity, sexual orientation, religion, disability, national origin, veteran status, genetic information, citizenship, political thought, and age. NOC invites different perspectives and encourages all individuals within the NOC community to listen respectfully, both to consider new viewpoints and broaden one's own perspectives.

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## **REPORT AN INCIDENT- If this is an emergency, immediately call 911.**

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Anyone can report sexual harassment, or sexual assault. All forms of sexual violence should be reported, no matter the severity. NOC encourages victims of sexual violence to talk to someone about what happened so that they can receive support, and the college can respond appropriately.

A report does not trigger a Title IX investigative or hearing process. The initial report informs the institution which then the Title IX coordinator offers supportive measures and explains the optional process of filing a formal complaint. Supportive measures are offered with or without a formal complaint.

There is no time limit for reporting, and people should report incidents even if significant time has passed.

Oklahoma state law requires that any person who has reason to believe that a minor is a victim of child abuse or neglect has an affirmative duty to make an oral report to the Department of Human Services. Report child abuse and neglect to **DHS Hotline 1-800-522-3511**. If the child is in imminent danger, call 9-1-1.

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## **REPORTING OPTIONS**

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### **TITLE IX COORDINATOR**

Title IX Coordinator- Jason Johnson

Office Location- NOC Tonkawa Campus- Vineyard Library Administration Building 101

E-Mail Address- Jason.johnson@noc.edu

Telephone Number- 580.628.6240

Electronic Report- <http://northok.publishpath.com/title-ix-compliance>

### **RESPONSIBLE EMPLOYEE**

All full-time NOC employees have been designated as responsible employees and must report all relevant details about the alleged sexual violence shared by the victim, including names, date, time, and specific location of the alleged incident to the Title IX Coordinator.

### **ANONYMOUS REPORT**

NOC provides an online system for anonymous reporting. Anonymous reports may prompt a need for NOC to investigate. Anonymous reporting may inherently limit the scope of the investigation due to limited information and evidence. To access the anonymous online reporting system <http://www.noc.edu/suggestions>

### **LAW ENFORCEMENT**

NOC strongly encourages individuals to report any instance of sexual violence to the police. The criminal investigation, should the complainant choose to pursue criminal prosecution, will be conducted by

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## **GRIEVANCE PROCESS**

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Notice to the Title IX Coordinator charges a school with actual knowledge and triggers the school's response obligations. "Notice" includes, but is not limited to, a report of harassment, including sexual harassment, to the Title IX Coordinator.

NOC must respond promptly to Title IX harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances. NOC prescribes a consistent, transparent grievance process for resolving formal complaints of sexual harassment.

Upon receipt of a report, NOC's Title IX Coordinator will attempt to contact the complainant, if known, to inform them of their rights, options, and resources.

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## **SUPPORTIVE MEASURES**

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Complainant and respondent have the right to receive supportive measures from NOC regardless of whether the complainant desires to file a formal complaint. Supportive measures are non-disciplinary and non-punitive. The Title IX Coordinator is responsible for offering and coordinating these measures.

As appropriate, supportive measures may include, but not be limited to:

**Academic Arrangements-** Assistance in adjusting academic schedule.

**Assistance in Reporting-** Assistance in filing a complaint with NOC Title IX grievance process and/or the appropriate law enforcement.

**Living Arrangements-** Assistance in changing on-campus living arrangements.

**No Contact Order-** Prohibit contact between the complainant and the respondent through any means of communication, as well as prohibit others from making contact on their behalf.

**Safety Measures-** Reasonable arrangements that are necessary for ongoing safety.

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## **COMPLAINANT OPTIONS**

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### **REQUESTS FOR NO ACTION**

If the complainant requests that no action be taken, NOC Title IX Coordinator will determine whether an investigation is necessary by weighing a request for confidentiality by the complainant against the safety of the NOC campus community.

The college reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct or domestic violence in order to protect students' rights and personal safety.

### **FORMAL COMPLAINT**

An investigation will occur once a formal complaint is filed by a complainant and signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.

A formal complaint may be filed with the Title IX Coordinator:

- In-Person
- Mail
- Electronic Mail
- Phone

### **INFORMAL RESOLUTION**

NOC, in its discretion, to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Informal resolution is available at any time prior to reaching a determination regarding responsibility; the recipient may facilitate an informal resolution process.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

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## **EMERGENCY REMOVAL**

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NOC can act to remove a respondent entirely or partially from education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention Team using its standard objective violence risk assessment procedures. If the respondent's actions pose an immediate and identified threat, but do not "arise from" allegations of "sexual harassment" the institution is free to respond under its code of conduct or in accordance with applicable laws.

In all cases in which an emergency removal is imposed, the student and conduct officer will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate.

A complainant and their advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A respondent may be accompanied by an advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

NOC will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily reassigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

The temporary suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a student hearing and appeal, if required. The student will be notified in writing of this action and the reasons for the temporary suspension. The notice shall include the time, date, and place of an initial hearing at which the student may show cause why continued presence on the campus or in college housing does not constitute a threat.

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## INVESTIGATION

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The investigation will be conducted and will allow sufficient time to review all evidence and complete a fair investigation summary report. Updates on the investigation will be provided in a reasonable time following receipt of a written request.

An investigation will be conducted by a non-biased Title IX Investigators that are trained on issues related to domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation that protects the safety of the parties involved that will include meeting personally with the complainant, meeting privately with the respondent, meeting privately with any witnesses and reviewing any documentary evidence. Either party may raise issues related to potential conflicts of interest of investigators by contacting the Title IX Coordinator.

The burden of gathering evidence and the burden of proof must remain on NOC, not on the parties. NOC must provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence. NOC must not restrict the ability of the parties to discuss the allegations or gather evidence. NOC may consolidate formal complaints where the allegations arise out of the same facts.

- During the first investigation meeting, the investigator will:
- Review the investigation process
- Answer any questions
- Ask individual to share perspective on the situation
- Elicit any documentary information and names of a relevant witness

NOC investigators will meet separately with the complainant and respondent for a second meeting. This assists to have an accurate investigation report.

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## INVESTIGATION SUMMARY REPORT

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The Title IX Investigators will create an investigation summary report and submit it to the Title IX Coordinator. This document contains the perspectives of the complainant, respondent, witnesses, and any relevant documentary information.

NOC must send the complainant and respondent, an investigative report that fairly summarizes relevant evidence, in electronic format, **10 days** for the parties to inspect, review, and respond to the evidence.

Both parties must have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source. § 106.45(b)(3)(vi)

- Inculpatory – evidence that tends to show respondent is responsible
- Exculpatory – evidence that tends to show respondent is not responsible

After the passage of 10 days for the parties to review the investigative report and submit written responses, a panel of three Civil Rights and Title IX Committee members will be assembled to hold a live hearing.

### NOC TITLE IX COORDINATOR CAN DETERMINE THE FOLLOWING ACTIONS:

- Informal resolution per both the complaint and respondent give voluntary, informed, written consent to attempt informal resolution
- Continuation of grievance process to a live hearing

- Dismissal of case

## **INFORMAL RESOLUTION**

NOC, in its discretion, to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Informal resolution is available at any time prior to reaching a determination regarding responsibility; the recipient may facilitate an informal resolution process.

When an informal resolution process is commenced, the complainant and respondent will receive a written notice disclosing the allegations, the requirements of the informal resolution process, information relating to waiver of full investigation and hearing as a result of the informal resolution, and the right to withdraw from the informal process and resume the formal complaint.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

NOC must not offer or facilitate an agreement-based resolution process to resolve allegations that an employee sexually harassed a student.

If no hearing is held, after NOC sends the investigative report to the parties, before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker must explain to the party proposing the questions any decision to exclude questions as not relevant.

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## **LIVE HEARING**

The Title IX Coordinator will distribute the hearing file to the complainant, respondent, and their advisors 10 business days before the hearing. The hearing file includes the investigation report including documentary information, the outline of the hearing, the people that will be present for the hearing, and any additional supporting documents. Hearings will be scheduled around work and/or class schedules, and will not be postponed unless extraordinary circumstances exist. The respondent, and their advisors will continue to have access to all evidence, even such evidence not included in the investigative report, at the hearing, to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The hearing includes opening statements, discussion of relevant parts of the investigation report, information about the incident or incidents, presentation of information by witnesses brought by the parties, cross-examination of the parties and witnesses, and closing statements.

The complainant and respondent have the same opportunity to select an advisor of the party's choice who may be but need not be, an attorney. If a party does not have an advisor present at the live hearing, NOC must provide, without fee or charge to that party, an advisor of NOC's choice who may be, but is not required to be, an attorney.

Each party is permitted to have an advisor of their choosing to accompany them throughout the hearing. The advisor may confer quietly with their party, exchange notes, clarify procedural questions, conduct cross-examination, and generally assist the party in all manner other than speaking for them on their behalf or to the panel on a substantive matter.

At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including that challenging

credibility. Only relevant cross-examination and other questions may be asked of a party or witness.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the NOC's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. NOC will create an audio or audiovisual recording, or transcript, of any live hearing. All hearings are closed and information presented in them and all supporting documents are confidential.

Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant. Such cross-examination at the live hearing must be conducted directly, orally, and in real-time by the party's advisor of choice and never by a party personally.

All questioning must exclude evidence of the complainant's sexual predisposition or prior sexual behavior, such questions and evidence about the complainant's sexual behavior is offered to prove someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's the hearing officer which can be the title lx coordinator the panel chair.

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

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

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## **CONCLUSION OF HEARING**

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After the decision-maker has determined that all necessary information has been presented and questions answered, the committee will go into closed session, and all other persons will be excused. The committee will determine whether or not it believes the accused student is responsible for a violation of the regulations and, if so, whether the penalties determined by the conduct officer.

The decision-maker will notify both the complainant and the respondent simultaneously, in writing, of:

- When the decision becomes final.
- The outcome of any institutional disciplinary decision that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking.
- The institution's procedures for the complainant and respondent to appeal the results of the institutional disciplinary decision.
- Any change to the decision that occurs prior to the time that the decision becomes final.

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## **APPEALS**

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NOC must offer both parties an appeal from a determination regarding responsibility, and from a school's dismissal of a formal complaint or any allegations therein, on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or Title IX Coordinator, investigators, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

The request and reason for appeal shall be submitted in writing, by hard copy, signed, and dated to the Title IX Coordinator within 7 days after the disciplinary decision is rendered. The Title IX Coordinator will present the appeal to NOC's President, and a committee will render the decision.

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## **DISCIPLINARY ACTIONS**

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NOC may impose on a respondent, following determinations of responsibility. The following sanctions for violation of NOC regulations and may include one or a combination of the following:

### **Customized Restrictions or Projects-**

Including but not limited to: letter of apology, presentation of a workshop, preparation of a research paper or project, social probation, community service, assessment or evaluation, counseling, no contact orders (may include restricted access to campus services/amenities/enrollment/facilities/etc.), assigned a mentor/role model, required community/organizational involvement, restitution for damages, punitive fines, eviction from residence halls, loss of privileges (i.e. visiting privileges in housing or denial of access to computer or other campus services) prohibiting membership or leadership in campus organizations; or denial of participation in any official athletic or non-athletic extracurricular activity, including practices or travel; or withholding of official transcript or degree; or blocking from enrollment for a specified period of time; intervention program (may require a fee); or any combination of the above.

### **Conduct Probation-**

A student may be placed on conduct probation for a specified time frame. If a second violation occurs while a student is on probation, disciplinary action will be based on both charges. If the student has a Student Affairs disciplinary hold on the student records, it is removed at the discretion of the Conduct Officer.

### **Suspension-**

A student may be suspended from NOC for reasons of conduct for a definite period of time not less than the remainder of the current semester in which he or she is enrolled. The student who has been suspended may apply for readmission at the close of the period for which he or she was suspended. A suspension hold will be placed on the transcript during the period of suspension.

### **Expulsion-**

When a student is expelled, a record of this action will be made a part of the student's permanent record in the Office of the Registrar. A student who is expelled will not be allowed to re-enter NOC.

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## **PRESERVING EVIDENCE**

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Victims are encouraged to call NOC campus security or local law enforcement to initiate a report. It is the victim's decision if prosecution is pursued. If at all possible a sexual assault victim, who has the option of going for help at the nearest emergency room, should not shower, change clothes or brush teeth. Preserving evidence may be necessary to the proof of criminal.



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## RISK REDUCTION

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Do not confuse risk reduction tips for victim-blaming. The Federal Violence Against Women Reauthorization Act of 2013 and associated Department of Education Regulations on the Violence Against Women Act (34 CFR Part 688) requires institutions of higher education to provide risk reduction tips to the campus community. These tips are offered in the hope that recognizing patterns can help men and women to reduce the risk of victimization. Generally, an assault by a known offender will follow a four-step pattern:

1. An individual's personal space is violated in some way. For example, the perpetrator may touch the victim in a way that does not feel comfortable.
2. If the victim does not express discomfort, the perpetrator may begin to view the victim as an easy target because she/he is not acting assertively.
3. The perpetrator may take the victim to a location that is secluded and where the victim is vulnerable.
4. The victim feels trapped or unable to be assertive and is raped or assaulted.

If you find yourself in an uncomfortable sexual situation, these suggestions may help you to reduce your risk:

- Make your limits known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
  - Understand and respect personal boundaries.
  - DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
  - Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
  - Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
  - Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
  - Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
  - Silence and passivity cannot be interpreted as an indication of consent.

Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

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## BYSTANDER INTERVENTION

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We must all take it upon ourselves to respond appropriately when we notice something inappropriate. The following are positive options for bystander intervention:

1. **Evaluate the situation-** determine whether it is an emergency, or at least one in which someone needs assistance.
2. **Responsibility-** Assume responsibility and help whenever you can safely do so.
3. **Attempt to Help-** Whether this is to help the person leave the situation, confront a behavior, diffuse a situation, or call for other support/security.

Tips for Intervening in a situation potentially involving sexual assault, relationship violence, or stalking:

- Approach everyone as a friend
- Do not be antagonistic
- Avoid using violence
- Be honest and direct whenever possible
- Recruit help if necessary
- Keep yourself safe

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## POLICY UPDATES

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Policy and procedures may be updated as needed, and the most current policy can be found electronically on the NOC's Title IX webpage. <http://northok.publishpath.com/title-ix-compliance>

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## APPENDIX

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### TITLE IX DEFINITIONS

Term	Definition
<b>Actual Knowledge</b>	Notice of sexual harassment or allegations of sexual harassment to NOC's Title IX Coordinator
<b>Complainant</b>	The individual who is alleged to be the victim of any prohibited conduct under this policy.
<b>Consent</b>	Effective consent is informed, freely and actively given, using mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Initiators of sexual activity are responsible for obtaining effective consent. Silence or passivity is not effective consent. The use of intimidation, coercion, threats, force, or violence negates any consent obtained. Consent is not effective if obtained from an individual who is incapable of giving consent due to lack of consciousness, age, mental disability, or incapacitation due to the use of drugs or alcohol.
<b>Formal Complaint</b>	A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting NOC to investigate the allegation of sexual harassment.
<b>Incapacitation</b>	Occurs when an individual is incapable, whether temporarily or permanently, of appraising or controlling their conduct due to the influence of drugs or alcohol, unconsciousness, being asleep, or for any other reason that makes the individual physically or verbally unable to communicate willingness to act.
<b>Preponderance of Evidence</b>	Under this standard, the burden of proof is met when the party with the burden convinces the Decision Maker there is a greater than 50% chance that the allegation is true.
<b>Responsible Employee</b>	NOC employee who has the duty to report information related to incidents reasonably believed to be violations of this policy to the Title IX Coordinator.
<b>Respondent</b>	An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
<b>Supportive Measures</b>	Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.
<b>Title IX Coordinator</b>	NOC's Title IX Coordinator is available to advise any individual, including a complainant, respondent, or a third party, about the courses of action available at NOC, both informally and formally. Title IX Coordinator is responsible for the oversight of the investigation and resolution of all reports of gender-based discrimination, sexual harassment, sexual violence, stalking, and domestic and dating violence involving students and employees. The Title IX Coordinator is responsible for monitoring compliance with all procedural requirements, record-keeping, and timeframes outlined in this policy, as well as overseeing training, prevention, and education efforts.

## PROHIBITED CONDUCT UNDER TITLE IX

Term	Definition
<b>Coercion</b>	The use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail that causes the person to engage in unwelcome sexual activity.
<b>Dating Violence</b>	Dating violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with another person. The existence of such a relationship shall be determined based on consideration of the following factors: <ul style="list-style-type: none"><li>i. The length of relationship;</li><li>ii. The type of relationship;</li><li>iii. The frequency of interaction between the persons involved in the relationship.</li></ul>
<b>Domestic Violence</b>	Domestic violence is felony or misdemeanor crime of violence committed by a: <ul style="list-style-type: none"><li>i. current or former spouse or intimate partner of the victim;</li><li>ii. person with whom the victim shares a child in common;</li><li>iii. person who is cohabitating with or has cohabited with the victim as a spouse or intimate partner;</li><li>iv. person similarly situated to a spouse of the victim under the domestic or family violence laws of Oklahoma;</li><li>v. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Oklahoma.</li></ul>
<b>Force</b>	Use of violence or intimidation to overcome an individual's free will to choose whether to participate in an activity.
<b>Intimidation</b>	Unlawfully placing another person in reasonable fear or bodily harm through the use of threatening words and/or other conduct.
<b>Sex Discrimination</b>	Individual treated less favorably on the basis of that person's sex, which may also include on the basis of sexual orientation, gender identity or expression, pregnancy or pregnancy-related condition, or a sex stereotype. Sexual Harassment is a form of sex discrimination.

<p><b>Sexual Assault</b></p>	<p>Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.</p> <ul style="list-style-type: none"> <li>i. <b>Rape<sup>j</sup></b> – the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim;</li> <li>ii. <b>Sodomy</b> – Oral or anal intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent disability;</li> <li>iii. <b>Sexual assault with an object</b> – To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;</li> <li>iv. <b>Fondling</b> – the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity;</li> <li>v. <b>Incest</b> – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;</li> <li>vi. <b>Statutory rape</b> – sexual intercourse with a person who is under the statutory age of consent.</li> </ul>
<p><b>Sexual Exploitation</b></p>	<p>Conduct where an individual takes non-consensual or abusive sexual advantage of another for their own benefit, or to benefit anyone other than the one being exploited. Examples include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by e-mail, text, or other channels to non-consenting students/groups; the intentional removal of a condom or other contraceptive barrier during sexual activity without the consent of a sexual partner; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease to another.</p>

<p><b>Sexual Harassment</b></p>	<p>Conduct on the basis of sex that satisfies one or more of the following"</p> <ul style="list-style-type: none"> <li>i. An employee of NOC conditioning the provision of any aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo);</li> <li>ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the NOC's education program or activity;</li> <li>iii. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct that explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment;</li> </ul>
<p><b>Stalking</b></p>	<p>Individual who engages in the course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.</p> <ul style="list-style-type: none"> <li>i. <b>Course of Conduct-</b> two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.</li> <li>ii. <b>Reasonable Person-</b> person under similar circumstances and with similar identities to the victim.</li> <li>iii. <b>Substantial Emotional Distress-</b> significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.</li> </ul>
<p><b>Retaliation</b></p>	<p>Any adverse action (including, but not limited to, intimidation, threats, coercion, harassment, or discrimination) taken against some because the individual made a report or filed a formal complaint; or against someone who has supported or provided information in connection with a report or formal complaint; or against someone who has participated or refused to participate in any investigation or hearing under this policy; or against someone who has engaged in other legally protected activities.</p>

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## STATE OF OKLAHOMA STATUTORY DEFINITIONS<sup>1</sup>

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**Consent:** The term "consent" means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time. Consent cannot be:

1. Given by an individual who:

- a. is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason, or
- b. is under duress, threat, coercion or force; or

2. Inferred under circumstances in which consent is not clear including, but not limited to:

- a. the absence of an individual saying "no" or "stop", or
- b. the existence of a prior or current relationship or sexual activity.

21 Okla. Stat. § 113

**Dating violence** is not defined by the state of Oklahoma; however, violence against a person with whom the perpetrator is in a dating relationship is considered domestic violence, defined below. A ***dating relationship*** is defined as: an intimate association, primarily characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship.

22 Okla. Stat. § 60.1.

**Domestic violence** is not defined in Oklahoma law. However, the criminal definition of ***domestic abuse*** is defined as: Any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member. "Family or household members" means: (a) parents, including grandparents, stepparents, adoptive parents and foster parents, (b) children, including grandchildren, stepchildren, adopted children and foster children, and (c) persons otherwise related by blood or marriage living in the same household. "Intimate partner" means: (a) current or former spouses, (b) persons who are or were in a dating relationship, (c) persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time, and (d) persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner, but is never a necessary condition.

22 Okla. Stat. § 60.1.

### **Sexual Assault:**

- a. rape, or rape by instrumentation, as defined in Sections 1111, 1111.1 and 1114 of [Title 21], or

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<sup>1</sup> May consider adding these as an appendix to your policy.

- b. Forcible sodomy, as defined in Section 888 of [Title 21].  
21 Okla. Stat. § 142.20.

**Rape:**

- A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:
  - 1. Where the victim is under sixteen (16) years of age;
  - 2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
  - 3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
  - 4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;
  - 5. Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;
  - 6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;
  - 7. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim; or the subcontractor or employee of a subcontractor of the state or federal government, a county, a municipality or a political subdivision that exercises authority over the victim;
  - 8. Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of the same school system; or
  - 9. Where the victim is nineteen (19) years of age or younger and is in the legal custody of a state agency, federal agency or tribal court and engages in sexual intercourse with a foster parent or foster parent applicant.
- B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.



**Rape by Instrumentation:**

Rape by instrumentation is an act within or without the bonds of matrimony in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person. Provided, further, that at least one of the circumstances specified in Section 1111 of this title has been met; further, where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in conduct prohibited by this section of law with a person who is eighteen (18) years of age or older and is an employee of the same school system, or where the victim is under the legal custody or supervision of a state or federal agency, county, municipal or a political subdivision and engages in conduct prohibited by this section of law with a federal, state, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, consent shall not be an element of the crime. Provided, further, that at least one of the circumstances described in Section 1111 of this title has been met; further, where the victim is nineteen (19) years of age or younger and in the legal custody of a state agency, federal agency or tribal court and engages in conduct prohibited by this section of law with a foster parent or foster parent applicant. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

21 Okla. Stat. § 1111.1.

**Forcible Sodomy:**

- A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a period of not more than twenty (20) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a

person under sixteen (16) years of age, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, a violation of Section 1123 of this title or sexual abuse of a child pursuant to Section 843.5 of this title, or of any attempt to commit any of these offenses or any combination of the offenses, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age;
2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime;
3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime;
4. Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state; or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision of this state;
5. Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system;
6. Sodomy committed upon a person who is at the time unconscious of the nature of the act, and this fact should be known to the accused; or
7. Sodomy committed upon a person where the person is intoxicated by a narcotic or anesthetic agent administered by or with the privity of the accused as a means of forcing the person to submit.
8. Sodomy committed upon a person who is at least sixteen (16) years of age but less than eighteen (18) years of age by a person responsible for the child's health, safety or welfare. "person responsible for a child's health, safety or welfare" shall include, but not be limited to: (a) a parent, (b) a legal guardian, (c) a custodian, (d) a foster parent, (e) a person eighteen (18) years of age or older with whom the child's parent cohabitates, (f) any other adult residing in the hold of the child, (g) an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.2 of Title 10 of the Oklahoma Statutes, or (h) an owner, operator or employee of a child care facility, as defined by Section 402 of Title 10 of the Oklahoma Statutes.

**Stalking:**

Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that:

1. Would cause a reasonable person or a member of the immediate family of that person as defined in subsection F of this section to feel frightened, intimidated, threatened, harassed, or molested; and
2. Actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed, or molested, shall, upon conviction, be guilty of the crime of stalking, which is a misdemeanor punishable by imprisonment in a county jail for not more than one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment

F. For purposes of this section:

1. "Harasses" means a pattern or course of conduct directed toward another individual that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim. Harassment shall include harassing or obscene phone calls as prohibited by Section 1172 of this title and conduct prohibited by Section 850 of this title. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct";
3. "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling;
4. "Unconsented contact" means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Constitutionally protected activity is not included within the meaning of unconsented contact. Unconsented contact includes but is not limited to any of the following:
  - a. following or appearing within the sight of that individual,
  - b. approaching or confronting that individual in a public place or on private property,
  - c. appearing at the workplace or residence of that individual,
  - d. entering onto or remaining on property owned, leased, or occupied by that individual,
  - e. contacting that individual by telephone,
  - f. sending mail or electronic communications to that individual, and
  - g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.
5. "Member of the immediate family", for the purposes of this section, means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who regularly resided in the household within the prior six (6) months.
6. "Following" shall include the tracking of the movement or location of an individual through the use of a Global Positioning System (GPS) device or other monitoring device by a person, or person who acts on behalf of another, without the consent of the individual whose movement or location is being tracked; provided, this shall not apply to the lawful use of a GPS device or other monitoring device or to the use by a

new or used motor vehicle dealer or other motor vehicle creditor of a GPS device or other monitoring technology, including a device containing technology used to remotely disable the ignition of a motor vehicle, in connection with lawful action after default of the terms of a motor vehicle credit sale, loan or lease, and with the express written consent of the owner or lessee of the motor vehicle.

21 Okla. Stat. § 1173.

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## **TRAINING**

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Title IX Personnel Training (Title IX personnel- Title IX Coordinators, investigators, decision-makers, people who facilitate any informal resolution process)

- Definition of sexual harassment
- Scope of the school's education program or activity
- How to serve impartially
- Avoid prejudgment of the facts at issue,
- Avoid conflicts of interest
- Avoid bias for or against complainants or respondents.
- How to conduct an investigation and grievance process including:
- Hearings
- Appeals
- Informal Resolution Processes

### **Decision Maker Training**

- A school must ensure that decision-makers receive training on any technology to be used at a live hearing.
  - A school's decision-makers and investigators must receive training on issues of relevance, including how to apply the rape shield protections provided only for complainants.
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