

Sexual Violence Policy Pertaining to Students

I. INTRODUCTORY STATEMENT

This policy is designed to address the issue of sexual violence aimed at students as described in the U.S. Department of Education's "Dear Colleague" letter dated April 4, 2011. As stated in the letter, "Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX." It further states that "...this letter explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and lays out the specific Title IX requirements applicable to sexual violence." It also states that "A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX."

Therefore, because the University stands against such behaviors and intends to be in compliance with Title IX, the University will take prompt, decisive action to: investigate allegations of sexual violence; initiate the disciplinary process if appropriate; and issue appropriate sanctions against any student found responsible for acts of sexual violence whether the behavior occurred on campus or off campus. The University of Tulsa respects the privacy of consensual relationships among its students and does not intend to become intrusive in these relationships. However, if these relationships should lead to a charge of sexually violent behavior or if a student is involved in an unwanted or non-consensual sexual act, then the University will assist the student who presents him/herself as a complainant as necessary and make available its conduct process to hear a complaint against an alleged perpetrator.

Furthermore, these acts may constitute violations of other University policies and regulations that may require additional proceedings. Complaints against non-student alleged perpetrators who are employed by the University may also be filed under the appropriate faculty or staff conduct-policy. Students are advised that some acts of sexual violence also may constitute a violation of Oklahoma statutes. Therefore, students may wish to pursue the matter through the state's civil, and/or criminal systems as well as through the University.

Sexual harassment, which includes sexual violence, includes a variety of unwelcome conduct of a sexual nature ranging from uninvited and unwanted sexual advances, touching, requests for sexual favors, other verbal, non-verbal or physical conduct of a sexual nature including forced intercourse. As stated in the "Dear Colleague" letter, sexual violence may occur when any such act is committed "against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual may also be unable to give consent due to an intellectual or other disability." It can occur between persons in dating, previously non-sexual, or sexual relationships and between persons of the same sex.

Persons engaging in these behaviors, with either a stranger or friend, may be charged with and prosecuted for sexual violence under this policy or state law. An allegation of sexual violence is very serious. The reputation of both the complainant and the accused within the University community, possible legal action, and many other issues are at stake. Therefore, a knowingly false complaint will be viewed as a breach of the Student Code of Conduct and may result in a formal complaint against the student who complains falsely.

II. DEFINITIONS

- A. **Sexual harassment:** Unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.
- B. **Sexual violence:** A form of sexual harassment prohibited by **Title IX**. Title IX of the Education Amendments of 1972 (Title IX) broadly prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance. Sexual violence is viewed under the law as an extreme form of hostile environment/sexual harassment and must be addressed. When an institution "knows or reasonably should know" about a hostile environment, they are required "to take immediate action to eliminate the harassment, prevent its recurrence and address its effects." Institutions must adopt and publicize policies as well as designate at least one Title IX coordinator to respond to their obligations under the law.
- C. **Consent to a sexual act:** A clear expression of consent to a sexual act. Consenting persons must act freely, voluntarily, and have knowledge of the act or transaction involved. Consent will not be implied by silence, mere passivity from a state of intoxication or unconsciousness. Lack of consent is implied if there is a threat of violence, if violence is in fact used, or if the accused has taken advantage of a position of influence which that person has over the complainant.
- D. **Non-consent to a sexual act:** A lack of clear expression of consent to a sexual act.

- E. **Forcible sexual offense:** Involvement without consent in any sexual act in which there is force, expressed or implied, or use of duress or deception upon the complainant. This may include, but is not limited to rape, sexual penetration, sodomy, or any other act as defined in this policy. This may also include forced penetration by a foreign object (including a finger). **Note: For the purposes of this policy, it is emphasized that Forced Sexual Intercourse is defined as rape and includes the terms commonly referred to as "date rape" or "acquaintance rape".**
- F. **Non-forcible sexual offense:** Involvement without consent in any sexual act when the complainant is unable to give consent due to the use of drugs, alcohol, intellectual deficiency or other disability.

III. REPORTING SEXUAL VIOLENCE

If the University knows or reasonably should know about an incident of student-on-student harassment that creates a hostile environment, Title IX requires that the University take immediate action to eliminate the harassment, prevent its recurrence, and address its effects. To be proactive, the University publishes a notice of nondiscrimination and has adopted and published grievance procedures. Because sexual violence is considered sexual harassment under Title IX, these steps apply to matters involving sexual violence. In cases involving potential criminal conduct, the Title IX Coordinator or appropriate Deputy Coordinator will determine, consistent with state and local law, whether appropriate law enforcement or other authorities should be notified.

In addition to publishing a notice of nondiscrimination and publishing grievance procedures (which are those steps students may take according to the Student Code of Conduct) the University has designated a Title IX Coordinator and a number of Deputy Coordinators. Those are listed by the following titles followed by the names of the incumbents along with their contact information. The mailing address for all is The University of Tulsa, 800 south Tucker Drive, Tulsa, Ok, 74104.

Title IX Coordinator: Associate Vice President for Human Resources and Risk Management, Wayne Paulison, Fisher Hall East, suite 103, 918-631-2616, wayne-paulison@utulsa.edu

Deputy Coordinator for Students: Associate Vice President for Enrollment and Student Services & Dean of Students, Yolanda Taylor, Holmes Student Center, room 59, 918-631-2327, yolanda-taylor@utulsa.edu

Deputy Coordinator for Student Athletes and Athletic Department Employees: Associate Athletic Director – Senior Women’s Coordinator, Crista Troester, Mabee Gymnasium, 918-631-3507, crista-troester@utulsa.edu

Deputy Coordinator for Faculty: Associate Vice President for Academic Affairs & Vice Provost, Winona Tanaka, 918-631-3054, winona-tanaka@utulsa.edu

Deputy Coordinator for Administrative/Professional and Hourly Staff: Employee Relations Coordinator, Laurie Austin, 918-631-2615, lorie-austin@utulsa.edu

Deputy Coordinator for Study Abroad Programs: Vice Provost for Global Education, Cheryl Matherly, 918-631-3225, cheryl-matherly@utulsa.edu

Students who are the recipients of sexual violence are encouraged to report the incident to appropriate University officials such as Housing staff members, Campus Security, a faculty member, and Health Center and Counseling Center staff and to do so immediately. The following individuals also have been trained to assist an individual who has experienced sexual violence. They are referred to as TU Primary Contacts.

At the first opportunity during the University's regular business hours, sexual violence complainants are encouraged to telephone or visit one of the TU Primary Contacts. The Primary Contact will be knowledgeable about the resources, services, and options available to victims of sexual violence and will be prepared to guide the complainant in accessing those resources and services. The Primary Contact will be a source of support and help and, with the complainant, will explore the various options available and ensure the complainant is provided the information necessary to make informed decisions.

Primary Contact Network

Laura Allen, Holmes Student Center room 51, 918-631-2966
 Tom Brian, Alexander Health Center, 918-631-2200
 Stephanie Fell, Alexander Health Center, 918- 631-2241
 Melissa France, Fisher Hall East, Housing Office, 918-631-2516
 Alyson Garrison, Holmes Student Center room 59, 918-631-3516
 LeeAnna Lamb, Fisher Hall East, Housing Office, 918-631-2516
 Laura McNeese, Holmes Student Center room 51, 918- 631-2967

Mike Mills, Collins Hall room 2170, 918- 631-2510
Yolanda Taylor, Holmes Student Center room 59, 918- 631-2327

Both outside of the University's regular business hours and during them and based on the nature of the incident, a sexual violence complainant may choose to telephone *Call Rape* as soon as feasible. Their number is 9187HELPME or (918-743-5763) and request the Call Rape counselor to give specific instructions as to the actions to take. Additional information from Domestic Violence Intervention Services (DVIS/Call Rape) can be found at www.dvis.org. The complainant may also choose to seek immediate medical attention by going to the emergency room of a local hospital.

The following are recommended steps to take based on the nature of the sexual violence that occurred: don't bathe; women should not douche and should try not to urinate; don't drink anything, smoke, eat, or brush your teeth if oral contact took place; and if clothes are changed, place them in a paper bag as plastic destroys evidence.

Since it is important to check for internal or other injuries and sexually transmitted diseases in certain instances, complainants who decide not to go to an emergency room are advised to seek attention as promptly as possible from a private physician or the Alexander Health Center.

IV. COURSES OF ACTION

Following initial medical procedures (if needed) and attention to the emotional well-being of a complainant, the Primary Contact or other appropriate University official will review appropriate University services and legal remedies with the complainant. These are:

A. **Follow-up Medical Assistance:** It may be necessary for subsequent medical services through Alexander Health Center, an emergency room or a private physician. The Primary Contact or other appropriate University official will be in the best position to monitor the situation and inform the complainant accordingly.

B. **Counseling and Psychological Services:** The staff of the Counseling and Psychological Services Center is prepared to assist sexual violence complainants in dealing with the emotional aftermath of such an experience. Complainants can discuss their concerns in an atmosphere of privacy and confidentiality to the extent allowed by the law. Off-campus counseling resources also may be considered.

C. **Filing a University Complaint:** Sexual violence constitutes a violation of University policy. The University will inform and obtain consent from the complainant before beginning an investigation. By filing a complaint with the Dean/Associate Dean of Students, complainants will have their complaints investigated by the Dean of Students. If the Dean finds there is good reason to proceed, the complaint will have access to the provisions of the University Student Code of Conduct. Most investigations would be expected to be completed within 60 days from the date of the original complaint.

If the complainant requests confidentiality or asks that the complaint not be pursued, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or the request not to pursue an investigation. If the complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the complainant would be informed that the University's ability to respond may be limited. The complainant will also be reminded that Title IX prohibits retaliation and that University officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

After all such advice if the complainant continues to ask that his or her name or other identifiable information not be revealed, the University will evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. This includes considering such factors as: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints against the same individual; and the alleged harasser's rights to receive information about the allegations if the information is maintained as an "educational record" under FERPA.

If the complainant is a student but the alleged perpetrator is not a TU student or employee, the Dean/Associate Dean of Students will provide the complainant support and guidance through the civil or criminal complaint process. University resources are available to complainants regardless of the status of the alleged perpetrator, including assistance in pursuing an internal complaint process where the alleged perpetrator is not a student but is employed by TU.

Note: The conduct of students enrolled in the College of Law is governed by the College's Student Conduct Code and an alleged perpetrator may be subject to a proceeding and sanctions imposed under that code as well as the University Student Code of Conduct. Students who are under the jurisdiction of organizations with their own conduct bodies may also be subject to a proceeding and sanctions under those bodies.

If the alleged perpetrator is a TU student, the complainant may choose to have the complaint heard by the University Student Conduct Board or by the Dean/Associate Dean of Students. Mediation is not an option to resolve a complaint of sexual violence. Among the provisions of either process are the following:

1. Both parties will be able to present witnesses and evidence;
2. Attorneys will not be permitted for either party;
3. Neither party will be allowed to question or cross examine the other;
4. Both parties will have the opportunity to appeal;
5. The past sexual history of the complainant and alleged perpetrator will be deemed irrelevant to the proceeding process except as that history may be related directly to the incident being heard; and
6. A decision will be based on the standard that it is more likely than not that the alleged behavior occurred, sometimes referred to as the preponderance of the evidence.
7. Both parties will be notified concurrently in writing about the outcome of both the complaint and any appeal whether harassment was found to have occurred or not.

D. Should the alleged perpetrator be found responsible for the alleged sexual violence, the University, where possible, and for the welfare of the complainant, will make adjustments in such things as housing assignments and enrollment. The University will also take steps to prevent reoccurrence of any harassment and to correct its discriminatory effects on the complainant and others if appropriate.

E. While there is no time limit for filing a complaint with the Dean/Associate Dean of Students, the University retains jurisdiction over individuals only so long as they remain enrolled or employed by the University.

F. As long as sexual assault complainants remain enrolled as TU students, there is no time limitation for complainants to report complaints and receive services from the University.

G. Certain forms of sexual assault may be a violation of the statutes of the State of Oklahoma. Complainants, therefore, may have certain legal rights with regard to criminal and civil action. Again, the Primary Contact or other appropriate University official will have pertinent information regarding the rights of complainants, but will not be providing legal advice. They will assist complainants in their contacts with the police department and the district attorney. Complainants may wish to consult the attorney on retainer with the Student Association where the initial session is without charge. These procedures can often be complex, puzzling, and time-consuming. Thus, the assistance of a Primary Contact or other appropriate University official is deemed essential.

V. SEXUAL VIOLENCE RESPONSE TRAINING

The University will provide appropriate training aimed at identifying and assisting in reporting sexual harassment and violence to those individuals likely to witness or receive reports of such behavior.

VI. SEXUAL VIOLENCE PREVENTION AND EDUCATION

Students are urged to take responsibility for their relationships and guard against sexual violence. Furthermore, students must be aware of their surroundings both on campus and off campus and take precautions that will diminish the likelihood of becoming a victim of sexual violence.

The University provides numerous educational means by which students can be informed about these issues. Also, students are urged to practice risk reduction behaviors. The entire University community must be alerted to and conscious of sexual violence and the impact such behavior has upon complainants and the University community at large.

Educational programs are an essential part of prevention. Names of TU personnel who have agreed to serve as Primary Contacts will be posted prominently around campus and will be on file with Campus Security and other University offices including the Office of Student Affairs. Brochures dealing with prevention will be readily available to all students. Students new to the University are urged to participate in a program on sexual violence and risk reduction behavior while attending the new student orientation program.

All student organizations are encouraged to develop their own educational programs to be presented to their members. The University offers a broad range of consultants and presenters who will be prepared to assist organizations in the design and delivery of their programs. Students are referred to the Dean of Students for assistance in this area.