

# DISCRIMINATION AND HARASSMENT POLICY

2024 - 2025

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## NOTICE OF NON-DISCRIMINATION

Tulsa Community College is committed to establishing a safe and healthy environment for its students, employees, and visitors. Individuals deserve to work and learn in an environment free of violence, discrimination, and harassment. Together, we can foster a positive and healthy environment for all. The College takes acts of dating violence, domestic violence, harassment, and discrimination, based on sex, which includes sexual harassment, sexual misconduct, stalking, medically related pregnancy conditions, or gender and retaliation, seriously and strongly encourages individuals to report these acts.

In compliance with Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (Higher Education Act), the Americans with Disabilities Act of 1990, and other federal and state laws and regulations, Tulsa Community College does not discriminate based on race, color, national origin, sex, age, religion, qualified disability, status as a veteran, sexual orientation, gender identity, genetic information, or any other basis protected by applicable discrimination law in its policies, practices, or procedures. This provision includes but is not limited to admissions, employment, financial aid, and educational programs, activities, or services.

The following are designated to handle inquiries regarding the non-discrimination policies.

Heather Hancock  
Compliance Officer/Title IX Coordinator  
909 S. Boston Ave, Room 505  
Tulsa, Oklahoma 74119  
Phone: 918-595-7842  
Email: [TCCTitleIX@tulsacc.edu](mailto:TCCTitleIX@tulsacc.edu)

The 504 Coordinator is designated to coordinate efforts to comply with and carry out responsibilities under Section 504 of the Rehabilitation Act of 1973, designed to protect the rights of individuals with disabilities in programs and activities.

Scott Gove  
Dean of Students & Accessibility/504 Coordinator  
909 S. Boston Ave  
Tulsa, Oklahoma 74119  
Phone: 918-595-7079  
Email: [scott.gove@tulsacc.edu](mailto:scott.gove@tulsacc.edu)

Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities, or benefits of any member of the TCC community based on race, color, national origin, sex, age, religion, qualified disability, status as a veteran, sexual orientation, gender identity, or genetic information violates the Discrimination and Harassment Policy.

This policy provides for the reporting and resolution of complaints of discrimination or harassment based on race, color, national origin, sex, age, religion, qualified disability, status as a veteran, sexual orientation, gender identity, genetic information, or any other legally protected class; denial of reasonable accommodations for religion, and discrimination or harassment due to denial of reasonable accommodations for a disability.

For more information, visit our website at <https://www.tulsacc.edu/civilrightscompliance>.

This policy includes prohibited conduct addressed in the Title IX Policy but with differing definitions in compliance with distinct federal law regulations. For example, the Title IX policy addresses dating violence, domestic violence, retaliation, sexual harassment, and stalking. Due to these federal law regulations, Tulsa

Community College must address prohibited conduct differently depending on the circumstances of the alleged behaviors. For questions or information regarding the Title IX Policy, visit our website at <https://www.tulsacc.edu/titleix>.

## OVERVIEW

Working through the Discrimination and Harassment process can be complicated for those reporting and responding to allegations. The Office of Civil Rights Compliance has provided steps to help Complainants and Respondents through this process. The following steps summarize the Discrimination and Harassment investigative process.

[Step 1: Reporting Discrimination and Harassment](#)

[Step 2: Providing Supportive Measures](#)

[Step 3: Assessing a Discrimination and Harassment Report](#)

[Step 4: Investigating Reported Allegations](#)

[Step 5: Findings and Sanctions](#)

[Step 6: Appealing the Findings and Sanctions](#)

## STEP 1: REPORTING DISCRIMINATION AND HARASSMENT

A Complainant has many options when deciding where and to whom to file a discrimination and harassment report:

- **Compliance Officer:** The Compliance Officer is available to discuss discrimination, harassment, or retaliation concerns during business hours at 909 S. Boston Ave, Room 505, Tulsa, Oklahoma, Phone 918-595-7842.
- **ReportIt:** A discrimination, harassment, or retaliation report may be submitted at <https://www.tulsacc.edu/reportit>. Anonymous reports are accepted; however, providing supportive measures with an anonymous report is impossible. If you request a response and wish to remain anonymous, you may create an email address without direct identifiers and submit it on the form. Reporting carries no obligation to initiate a formal response, and the College respects the Complainant's request to dismiss complaints unless there is a compelling threat to health or safety. During the investigative process, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss the option to file a formal complaint and provide supportive measures.
- **Mandatory Reporter:** All employees, including part-time and full-time, must report all acts of dating violence, domestic violence, harassment, threats, and bullying based on sex, retaliation, sexual harassment, sexual assault, and stalking in writing to the Office of Civil Rights Compliance. A mandatory reporter must, without delay, submit a report through the College's online reporting system, [TulsaCC.edu/titleix](https://www.tulsacc.edu/titleix), and must include their name. Due to the fact employees are mandatory reporters, Complainants may want to consider whether they share personally identifiable details with College employees as they must be reported. Employees must share all components, including the name(s) of the parties if known, even if the person requests information not to be reported. As soon as a mandatory reporter has been notified of an incident, without delay, they should report it to the Office of Civil Rights Compliance to ensure supportive measures can be provided as quickly as possible.

Supervisors of mandatory reporters shall not create additional processes within a department nor investigate a complaint before reporting. Student employees are Mandatory Reporters when functioning within the scope of their employment role. Students and employees can access confidential counselors through the College’s Employment Assistance Program for employees and Wellness Services for students. These counselors would have confidential privileges if information shared with them about sex discrimination were shared during a counseling session. They will, however, provide the Complainant with the Title IX Coordinator’s contact information and offer resources without any obligation to inform an outside agency or the College official unless a Complainant has requested the information be shared. If these employees are provided information about sex discrimination when they are not operating in their privileged role, they are a Mandatory Reporter. Failure of a Mandatory Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a violation of this Policy and can be subject to disciplinary action for failure to comply and failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy. A Mandatory Reporter who is themselves a target of discrimination, harassment, or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

- **TCC Police:** A Complainant can report any crimes in this policy directly to TCC Police by contacting 918-595-8888 or visiting a TCC Police office on any campus. Reports of all domestic violence, dating violence, sexual assault, and stalking made to TCC Police will be reported to the Office of Civil Rights Compliance regardless of whether the Complainant chooses to pursue criminal charges.
- **Confidential Reporting:** If a Complainant would like the details of an incident to be kept confidential, the Complainant may seek confidential services from the following:

DVIS Outreach Counselor	918-805-4794 (text/voice)
DVIS 24-hour Hotline	918-743-5763
Employee Assistance Program	1-800-327-2251 (employees only)
Wellness Services	<a href="mailto:Wellness@tulsacc.edu">Wellness@tulsacc.edu</a> (students only)

Options for confidential reporting allow a person to report to someone who will maintain confidentiality except in extreme cases of immediate threat, danger, or suspected abuse of a minor. For purposes of the Clery Act, a confidential resource may be asked to submit timely, anonymous, aggregate statistical information unless they believe it would harm a specific employee or student.

- **Request for Confidentiality:** If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want any form of resolution to be pursued, they may make such a request to the Compliance Officer, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating a pattern, predation, threat, weapons, or violence, TCC is not likely able to honor a request for confidentiality. In other cases, where circumstances allow the College to keep a request for confidentiality, the College will offer resources and supportive measures to the Complainant but will not otherwise pursue formal action. A Complainant has the right to have and can expect TCC to take reports seriously and to have those incidents investigated and resolved through these procedures.

[WHEN A COMPLAINANT DOES NOT WISH TO PROCEED](#)

When a Complainant does not wish for their name to be shared, does not wish for an investigation to occur, or does not want a formal complaint to be pursued, they may make such a request to the Office of Civil Rights Compliance, who will evaluate the request in light of the duty to ensure the safety of the campus and to comply with state or federal law. The Compliance Officer has ultimate discretion over whether the College proceeds

when the Complainant does not wish to do so. The Compliance Officer may determine if an investigation is needed upon completing an appropriate risk assessment. The Compliance Officer's decision should be based on the risk assessment results that show a compelling risk to health or safety that requires the College to pursue formal action to protect the community.

A compelling risk to health or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes. The Compliance Officer must also consider the effect of non-participation by the Complainant on the availability of evidence and the College's ability to pursue an investigation fairly and effectively. If the College proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this policy irrespective of their level of participation.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation. The goal is to provide the Complainant with as much control over the process as possible while balancing the College's obligation to protect its community. If the Complainant elects to take no action, they can change that decision if they request an investigation later. Upon filing a complaint, a Complainant has the right to expect allegations taken seriously by the College and have the incidents investigated and adequately resolved according to this policy and procedure.

## **STEP 2: PROVIDING SUPPORTIVE MEASURES**

Supportive Measures are 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 filing a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment or deter sexual harassment.

The Compliance Officer promptly makes supportive measures available to the parties upon receiving a report of discrimination and harassment. Supportive measures may be implemented at any time. When supportive measures are offered, the Office of Civil Rights Compliance will inform the Complainant, in writing, that they may file a formal complaint with the College at that time or in the future if they have not done so already. The Compliance Officer works with the Complainant to ensure that their wishes are considered by the supportive measures that are planned and implemented.

The College will maintain the privacy of the supportive measures if confidentiality does not impair the College's ability to provide the supportive measures. The College will ensure that there is as minimal an academic impact on the parties as possible. The College will implement measures that do not unreasonably burden the other party. Supportive measures are available to a Complainant, irrespective of whether the Complainant files a formal complaint.

The College may take steps to provide supportive measures to limit the effects of the alleged discrimination and harassment. Supportive Measures may include, but are not limited to:

- Academic accommodations;
- Administrative Leave with or without pay;
- Class reassignment, withdrawals, or modifications;
- Employment reassignment;
- Increased security and monitoring of certain areas of campus;
- Limitation of college activities;
- Mutual No Contact Order;

- Parking arrangements;
- Referral to Employee Assistance Program;
- Referral to TCC and local community counseling services;
- Safety escorts to class or employment location;
- Safety planning;
- Student financial aid counseling;
- Work schedule adjustments; and
- Other reasonable requests as necessary.

## RESOURCES

The following resources are available to students and employees who have been affected by any prohibited conduct, regardless of whether there is an investigation under this process:

<b>TCC Resources and Services</b>	
Employee Assistance Program	1-800-327-2251 (Employees Only)
Wellness Services	<a href="mailto:wellness@tulsacc.edu">wellness@tulsacc.edu</a> (Students Only)
Title IX Coordinator	(918) 595-7842 or <a href="mailto:TCCTitleIX@tulsacc.edu">TCCTitleIX@tulsacc.edu</a>
Office of Civil Rights Compliance	<a href="https://www.tulsacc.edu/titleix">https://www.tulsacc.edu/titleix</a> .
TCC Police	(918) 595-8888 or <a href="mailto:campuspolice@tulsacc.edu">campuspolice@tulsacc.edu</a>
<b>Community Resources and Services</b>	
Domestic Violence Intervention Services	(918) 743-5763 or <a href="http://www.dvis.org">http://www.dvis.org</a>
DVIS Counselor <sup>1</sup> to TCC students and employees	Lori Gonzalez LPC- Outreach Counselor, (918) 805-4794 (voice/text) or <a href="mailto:lgonzalez@dvis.org">lgonzalez@dvis.org</a>
Family Safety Center	(918) 742-7480
Family & Children's Services	(918) 587-9471
211 Oklahoma (Food, Housing, Health, etc.)	<a href="http://211eok.org/">http://211eok.org/</a> or Call 211
Tulsa Police Department	Call 911 or (918) 596-9222
<b>National Resources and Services</b>	
Suicide & Crisis Lifeline	Call 988
Rape, Abuse and Incest National Network	<a href="http://www.rainn.org">http://www.rainn.org</a>
Department of Justice	<a href="https://www.justice.gov/ovw">https://www.justice.gov/ovw</a>
Department of Education, Office of Civil Rights	<a href="http://www2.ed.gov/about/offices/list/ocr/index.html">http://www2.ed.gov/about/offices/list/ocr/index.html</a>

## MUTUAL NO CONTACT ORDER AS A SUPPORTIVE MEASURE

A Mutual No Contact Order prohibits direct or indirect physical, verbal, or written contact between two parties. A Mutual No Contact Order may prohibit communication and spatial restrictions for the classroom or working environment. A Mutual No Contact Order is not intended to be issued as a punishment but as a means of support for both Complainants and Respondents. A Mutual No Contact Order is implemented as an administrative action by the College. It is not to be confused with a criminal protective order law enforcement would enforce. A Mutual No Contact Order is not considered the same as a criminal restraining order.

The Office of Civil Rights Compliance frequently issues Mutual No Contact Orders between two parties as a supportive measure so that both parties can participate within the educational or work environment. No one, including a supervisor, instructor, or TCC Police, is responsible for monitoring or enforcing a No Contact Order. If a party violates the Mutual No Contact Order, the other party will file a discrimination and harassment report for the Office of Civil Rights Compliance to assess and possibly investigate. If an incident occurs where one of the parties feels unsafe, they can contact TCC Police to deescalate the imminent situation. TCC Police would file

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<sup>1</sup> TCC has a memorandum of understanding with the Domestic Violence Intervention Services that provides a confidential counselor to TCC students and employees as needed.

a discrimination and harassment report with the Office of Civil Rights Compliance to determine if a party violated the Mutual No Contact Order.

### **STEP 3: ASSESSING A DISCRIMINATION AND HARASSMENT REPORT**

Upon notice of a report of discrimination, harassment, or retaliation, the Office of Civil Rights Compliance will assess whether an investigation will be conducted under this policy. The College may choose to forgo a formal investigation under a variety of circumstances, for instance:

- Anonymous correspondence;
- Allegations that are communicated to OCRC only orally and not in writing;
- A complaint is speculative, conclusory, incoherent, or fails to describe in enough detail to infer discrimination based on a protected class;
- This policy does not cover the conduct described in the complaint;
- The facts alleged in the report do not rise to the level of a policy violation;
- Courtesy copies of correspondence or documentation filed with or otherwise submitted to another person or entity;
- An appropriate resolution or remedy has already been achieved or has been offered and rejected;
- The College has no authority over the Respondent;
- The allegation was not filed timely, within 180 business days of the date of the alleged discrimination;
- The complaint has been withdrawn;
- The Complainant stopped participating in the investigation but did not send a written withdrawal request; or
- When a formal complaint contains allegations already addressed or resolved by the College.

If a report has been filed and the assessment determines that the College will not investigate, the Office of Civil Rights Compliance will send a notification letter explaining the reason(s) to the Complainant. To the extent appropriate under this policy, the Respondent will be provided the same letter if involved in the assessment. The decision is final and non-appealable if the Office of Civil Rights Compliance determines no further action.

The College reserves the right to address offensive conduct or harassment that does not rise to the level of creating a hostile environment or that is generic and not based on a protected class. Addressing such behaviors may not result in disciplinary action under this policy but will be addressed through respectful discussion, interim measures, and education with ongoing discussion of appropriate professionalism. The College will retain documentation of the incident in the Office of Civil Rights Compliance, and the information will be kept confidential to the extent permitted by law.

### **STUDENT INTERIM SUSPENSION**

To respond effectively to an emergent situation, TCC may institute an Interim Suspension of a student from some or all TCC-owned and controlled property and programs (may include remotely delivered courses). An Interim Suspension of a student will be instituted if there is an immediate threat to the physical health or safety of any student or other individual. Students who are removed will be notified and have a right to appeal this removal.

This decision is considered final if it is not appealed. Students will be afforded due process and the ability to appeal as prescribed by the Tulsa Community College Student Handbook (<https://guides.library.tulsacc.edu/policiesandprocedures>) and other relevant college policies, rules, or regulations. Students may be subject to civil and criminal penalties and campus sanctions. Campus resolution may proceed before, during, or after civil or criminal actions are concluded and is not subject to challenge based on the action or inaction of civil authorities.

If submitted, the written appeal will be reviewed by the Dean of Students and Accessibility or designee within five (5) business days. The following will be reviewed: the initial reason for removal, any new information made available, and other pertinent information provided by the student. This review is not to determine responsibility but to determine if there is a continuing threat to the physical health and safety of a TCC student or other party. The Dean of Students will issue one of the following: dismiss, modify, or affirm the Interim Suspension. This decision is considered final.

### EMPLOYEE ADMINISTRATIVE LEAVE

An employee may be placed on Administrative Leave during an investigative process when an allegation of misconduct is made against an employee. Depending on the severity of the allegation, the Administrative Leave may be with or without pay.

Administrative Leave with or without pay may be used when it is determined to be in the College's best interest that an employee is not on campus for some time. While on paid Administrative Leave, the employee must be responsive to requests by the College, or pay may be suspended while a decision is made about employment.

### COUNTERCLAIMS AND REPORTS

A report by a Complainant, Respondent, or Witness against any other party or an employee managing an Office of Civil Rights Compliance investigation may be made in good faith but is sometimes made in retaliation.

The College must ensure that no process is abused for retaliatory purposes. The College permits the filing of these counterclaims and reports. An assessment will be conducted to determine if the allegations are made in good faith. If they are, the allegations will be processed using the appropriate policy, typically after resolving the underlying allegation(s). A delay in the processing of counterclaims and reports is permitted, accordingly. Occasionally, counterclaims and reports can be resolved through the same investigation at the discretion of the Compliance Officer. When counterclaims and reports are not made in good faith, they will be considered retaliatory and may violate this policy.

### **STEP 4: INVESTIGATING REPORTED ALLEGATIONS**

Once the decision is made to proceed with a formal investigation, the Compliance Officer appoints an Investigator to conduct the investigation, usually within ten (10) business days of determining that an investigation should proceed. A Notice of Investigation and Allegations will be provided to the Complainant and Respondent advising that an investigation will occur under this policy and include a general statement about the complaint.

The College will act only concerning allegations filed within 180 business days of the date of the alleged discrimination. The Compliance Officer may extend this time limit if a good cause can be shown.

Investigations are generally completed within 180 business days after the Complainant and Respondent have received a Notice of Investigation and Allegations, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The Office of Civil Rights Compliance may extend this time frame for a good cause, including College breaks.

At the outset of an investigation, the Complainant and Respondent will be advised of the investigation and the allegations in writing. Either party can have a support person present during the investigation, including meetings with the Investigator.

The Complainant and Respondent can respond to the Notice of Investigation and Allegations in writing and meet with the assigned Investigator. Investigations include interviews with relevant parties and witnesses and obtaining relevant evidence and research. Both parties have the right to request that the Investigator meet with



relevant witnesses and evaluate relevant evidence. The Investigator will interview all relevant witnesses and conduct follow-up interviews as necessary.

The Investigator has broad discretion in determining whether an offered witness or documentary evidence would be relevant or helpful to a determination. For example, an investigator might decline to speak to a witness because there is an insufficient basis for the person to have information pertinent to the factual determination; the information to be solicited would be repetitive, or confidentiality concerns outweigh the importance of the information.

If a Complainant or Respondent chooses not to participate in the investigative process, the investigation will continue without obtaining their response. Before the investigation ends, the Investigator will provide a comprehensive Preliminary Investigation Report summarizing the investigation, witness interviews, and provide all relevant evidence. Appendices, including appropriate physical or documentary evidence, will be included.

The report will include information directly related to the reported misconduct for a ten (10) business day review and comment period so that each party has a full and fair opportunity to review and meaningfully respond to the evidence. The Investigator may elect to respond in writing to the parties' submitted responses and share the parties' responses for additional clarity.

The Investigator will incorporate relevant elements of the parties' written responses into the Final Investigation Report, including any additional pertinent evidence, make necessary revisions, and finalize the report. The Investigator should document all rationales for changes made after the review and comment period. When completed, the Hearing Panel receives the Final Investigation Report. An investigation should usually be completed within 180 business days. The Compliance Officer may extend this time frame for a good cause, including College breaks.

The Office of Civil Rights Compliance will communicate regularly with the parties to update them on the progress and timing of the investigation. At any point in the inquiry or investigation, if it is determined there is no reasonable cause to believe there was a policy violation, the Compliance Officer or designee has the authority to terminate the investigation.

## ALLEGATIONS

**Dating Violence:** 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:

- The length of the relationship;
- The type of relationship;
- The frequency of interaction between the persons involved in the relationship;
- Dating violence includes but is not limited to, sexual or physical abuse or the threat of such abuse and
- Dating violence does not include acts that meet the definition of domestic violence.

## EXAMPLE

### Sexual Harassment: Dating Violence

Morgan and Peyton have been dating for a few months. They routinely meet on campus at 12:00p.m. for lunch. When Morgan was late for lunch one day, Peyton became angry and hit Morgan, which started a physical altercation between the two.

**Disability Discrimination:** The College is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination

against qualified persons with disabilities, as well as other federal and state laws and regulations about individuals with disabilities. Under the ADA and its amendments, a person has a disability if a physical or mental impairment substantially limits one or more major life activities.

The ADA also protects individuals with a record of a substantially limiting impairment or who are regarded as disabled by the College, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts one or more major life activities, such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

#### EXAMPLE

##### Disability-Based Harassment

Abdul, a student advisor, has a pronounced stutter resulting from anxiety. Abdul's coworkers mockingly imitated his stutter and asked Abdul to repeat himself, even though the coworkers understood what Abdul was saying. Abdul found a picture of the stuttering Porky Pig from Looney Tunes on their desk one day after lunch, and pictures of Porky Pig were posted in the gender-neutral bathrooms.

**Discrimination Based on Any Protected Class:** Is defined as engaging in objectively and subjectively offensive verbal abuse, threats, intimidation, harassment, coercion, bullying, or other conduct that threatens or endangers the mental or physical health/safety or causes reasonable apprehension of any person based on a protected class that is severe, pervasive, or persistent, and objectively offensive, such that it, has the effect of creating an intimidating, hostile, or offensive environment that limits or denies the ability that adversely affects their employment or education, or individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

Allegations of discrimination based on race, color, national origin, sex and gender (not covered in the Title IX Policy), age, religion, qualified disability, status as a veteran, sexual orientation, gender identity, or genetic information will be addressed under this prohibited conduct.

#### EXAMPLE

##### Age-Based Harassment

Henry, age sixty-two, is an engineer in facility services at a college. Ryan, his supervisor, calls him "old man" on a periodic basis. Since Henry's sixtieth birthday, Ryan has repeatedly asked him when he plans to retire, saying he can't wait to bring in "young blood" and "fresh ideas." During a recent staff meeting, Ryan reminded staff to get their flu shots, then looked at Henry and said, "Although I wouldn't be heartbroken if the flu took out some of the old timers." Henry asked Ryan if he was referring to him, and Ryan replied, "Absolutely, old man." Henry reports feeling targeted and ashamed by Ryan's comments.

#### EXAMPLE

##### Gender-Identity Harassment

Chloe, an administrative assistant at a college institution, is approached by her supervisor, Alton, who asks whether she was "born a man" because he had heard a rumor that someone was transgender in the department." Chole disclosed to Alton that she is transgender and asked him to keep this information confidential. After this conversation, Alton instructed Chloe to wear pants to work because a dress would be "inappropriate," despite other purchase order coordinators being permitted to wear dresses and skirts. Alton also asks inappropriate questions about Chloe's anatomy and sexual relationships. Further, whenever Alton is frustrated with Chloe, he misgenders her by using, with emphasis, "he/him" pronouns, sometimes in front of Chloe's coworkers.

## EXAMPLE

### Race-Based Harassment

A group of five Black officers, who are the only Black officers on their shift, experienced racial mistreatment and jokes, including aggressive treatment by their supervisor that included racial references and epithets, such as the n-word, “back of the bus,” and “the hood.” Much of the conduct occurred in a communal setting, in which supervisors participated or laughed at the conduct without objecting. This conduct occurred regularly, despite the Black officers’ repeated objections. Given the totality of circumstances, each of the Black officers was subjected to an objectively hostile work environment based on race.

## EXAMPLE

### Religion-Based Harassment

Thiago, a faculty member at a college, is agnostic and rejects organized religion. After Thiago’s sister died unexpectedly, Thiago is in mourning. He is approached by a coworker, Laney, who says that she can communicate with the dead and has received the following messages from Thiago’s sister: the sister is suffering in Hell, and Thiago will go to Hell as well if he does not “find God.” Thiago becomes upset and asks Laney never to bring up the topic again. Nevertheless, Laney continues to tell Thiago to find “Jesus” so Thiago will not “go to Hell like his sister,” despite Thiago’s ongoing requests for Laney to “drop it.”

**Domestic Violence:** Dating violence is a crime of violence committed by a:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabited with the victim as a spouse or intimate partner;
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of Oklahoma; or
- Any other person against an adult or youth victim is protected from that 'person's acts under Oklahoma's domestic or family violence laws.

Domestic violence is a pattern of abusive behavior in any relationship that one partner uses to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. To categorize an incident as Domestic Violence, the relationship between the Complainant and the Respondent must be more than just two people living together as roommates. The parties cohabitating must be current or former spouses or have an intimate relationship.

## EXAMPLE

### Sexual Harassment: Domestic Violence

Parker and Ryan live together in an on-campus apartment. When Ryan arrives at their apartment late after school, Parker shouts at Ryan, accusing Ryan of not being faithful, and shoves Ryan into the wall. Ryan sustains injuries and drives himself to the hospital to be treated. The hospital admits him, and he misses class for one week.

**Pregnancy Discrimination:** This is defined as engaging in behavior that discriminates against a student based on pregnancy or related conditions. Those behaviors include denying or limiting access to the educational environment by penalizing a student for absences due to medical conditions related to their pregnancy. If students are denied the opportunity to make up missed work due to a medical need and the employee denies guidance from an official of the College about a specific pregnancy request, these actions may be considered a violation of this policy and can result in disciplinary action for an employee.

## EXAMPLE

### Pregnancy-Related Medical Condition (Lactation) Harassment

Lisbet, a software engineer for a college and, recently returned to work after giving birth. Lisbet uses a lactation room at work as needed in order to express breast milk. Lisbet's coworker, Nathaniel, knocks loudly on the lactation room door while Lisbet is inside and pretends that he will enter. Nathaniel also refers to Lisbet's breasts as "milk jugs," making suckling noises when Lisbet enters and exits the lactation room and asks Lisbet if he can have a squirt of milk for his coffee. Nathaniel also refers to the lactation room as "Lisbet's getaway" and asks why he cannot take breaks in private rooms.

## EXAMPLE

### Student Pregnancy Discrimination

A professor notices Mary frequently leaving the room, missing critical information and a pop quiz. The professor asks Mary about leaving the room so often, saying that she may not complete the course because she is missing a lot of work. Mary explained that she was pregnant and needed to go to the bathroom often. The professor tells Mary to minimize the number of times she leaves class to go to the bathroom and reminds her that she may not complete the course if she continues to miss class time. Mary is worried about how she will complete this course. The professor does not accommodate Mary in class, does not excuse her absences, or allow her to make up the participation or attendance credits, assignments, or tests without penalty.

**Retaliation:** Includes attempting to penalize or take adverse action against a person filing a complaint of discrimination or harassment, participating or assisting in any investigation, or resolving a complaint of discrimination or harassment. Prohibition against retaliation extends even if the Complainant does not want to request a formal investigation. Adverse action includes but is not limited to making threats of actual violence against the person or that person's property, adverse educational or employment consequences, ridicule, intimidation, bullying, ostracism, reprisals, or other adverse action impacting employment, academic, health care, or institutional benefits. The College will impose sanctions on any faculty, student, or staff member found to be engaging in retaliation or on individuals who encourage third parties to retaliate on their behalf.

## EXAMPLE

### Insufficient Evidence of a Retaliation Claim

Susie, who works in facilities, recently reported to their supervisor that their coworkers were smoking outside in a non-smoking area of the college. The employees are no longer talking to them and snickering when they walk by. Susie filed a complaint of retaliation with the Office of Civil Rights Compliance. Based on the facts presented, although Susie may be experiencing retaliation for reporting the incident, Susie had not filed a report with the Office of Civil Rights Compliance and did not qualify for protection against retaliation.

## EXAMPLE

### Retaliation

Joe recently contacted the Office of Civil Rights Compliance and filed a report that he was being discriminated against for his age. The case did not rise to the level of a policy violation; however, when Joe's supervisor found out he had filed a report, he began reducing Joe's overtime.

**Sexual Harassment:** Is defined as making unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact or communication of a sexual nature when:

- Quid Pro Quo: Submission to or rejection of such conduct or communication is made either explicitly or implicitly a term or condition of educational benefits, employment, academic evaluations, or other academic opportunities; or submission or rejection of such conduct or communication by an individual is the basis for an employment or academic decision affecting such individual; or

- **Hostile Environment:** A hostile environment includes conduct that is severe, pervasive, or persistent, and objectively offensive, such that it has the effect of creating an intimidating, hostile, or offensive environment that limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

Discrimination based on sex or gender may occur in situations where there is a power differential between the parties (faculty-student, supervisor-employee) or where the persons share the same status (student-student, faculty-faculty) and between same or opposite sex (female-female, male-female, or male-male).

#### EXAMPLE

##### Employee Quid Pro Quo

Bobby's supervisor stated he would no longer allow overtime if they did not adhere to his requests to kiss them.

#### EXAMPLE

##### Student Quid Pro Quo

A professor tells a student who is struggling in their class that the professor will give them a better grade if the student agrees to go on a date with them.

#### EXAMPLE

##### Hostile Work Environment Created by Pervasive Sexual Harassment.

Juan, who works as a financial aid advisor for a college, alleges that Lydia, a female coworker who shares the same schedule, sexually harassed him for several weeks. The evidence shows that Lydia directed sexual overtures and other sex-based conduct at Juan as often as several times a week, despite his repeated statements that he was not interested. For example, Lydia gave Juan revealing photographs of herself, sent him notes asking for a date, described fantasies about him, and persistently told him how attractive he was and how much she loved him. Based on these facts, the conduct was sufficiently pervasive to create a hostile work environment.

#### EXAMPLE

##### Sex-Based Harassment Creates an Objectively Hostile Work Environment

Velma, a technician at a College, has recently been subjected to dating violence by her long-term intimate partner, which resulted in Velma moving out of their shared residence and into a shelter. Velma's coworker, Dan, learns about Velma's current living situation and, viewing her as vulnerable, asks Velma out on a date. Despite Velma declining his request, during each shift that they work together, Dan continues to say things like, "Is living in a shelter really worse than cuddling me at night?"; "I'll let you live with me free of charge on one condition: that you clean my house while naked"; and "the only thing that I would ever hit is that ass." Based on these facts, the sex-based harassment experienced by Velma, which must be viewed in the context of her vulnerability as a survivor of dating violence, is sufficiently severe or pervasive to create an objectively hostile work environment.

**Sexual Misconduct:** Is defined as engaging in non-consensual contact of a sexual nature. Sexual misconduct may vary in severity and consist of various behaviors. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, or gender identity of those involved. The following are considered sexual misconduct:

- **Non-Consensual Sexual Contact:** Unwelcome sexual touching of intimate parts (such as genitalia, groin, breast, buttocks, mouth, or clothing covering the same) touching an unwilling person with one's private parts or forcing an unwilling person to touch another's intimate parts;
- **Non-Consensual Sexual Intercourse:** Non-consensual sexual intercourse with another individual without their effective consent or by force, which could include penetrating any bodily opening with an object or body part. Sexual intercourse has vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation (mouth-to-genital contact) no matter how slight the penetration or contact;

- Sexual Exploitation: Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one's advantage or benefit or to benefit or advantage anyone other than the one being exploited; or
- Sexual Exposure: Engaging in indecent exposure, sexual acts in a public place, or voyeurism.

## EXAMPLES

### Sexual Assault - Non-Consensual Sexual Contact

Jordan and Harper are both at a party. Harper agrees to dance with Jordan. While dancing, Jordan slips a hand in Harper's shorts without their consent and begins to grope under their shorts.

## EXAMPLES

### Student Sexual Assault - Non-Consensual Sexual Contact

A student reported that their professor touched their bottom while they were at the professor's desk asking for assistance on an assignment. The professor also nudged the student's breast with their elbow while helping them and touched their bottom again as the student left the class.

## EXAMPLES

### Employee Sexual Assault - Non-Consensual Sexual Contact

An employee reported that a peer in their department sent them several unsolicited pictures of their body parts with no clothing on.

**Stalking:** Stalking refers to one who engages in conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or to suffer substantial emotional distress.

- A course of conduct means two or more acts, including 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;
- A reasonable person means a reasonable person under similar circumstances and with similar identities to the victim;
- Substantial emotional distress means significant mental suffering or anguish, which may require medical or other professional treatment or counseling; or
- The following includes the tracking of the movement or location of an individual through the use of a Global Positioning System (GPS) or another monitoring device by a person or persons who act on behalf of another without the consent of the individual whose movement or location is being tracked.

## EXAMPLE

### Sexual Harassment: Stalking

Londyn broke up with Taylor weeks ago. However, Taylor calls Londyn 20-30 times a day. Taylor continues to show up in various places on campus where Londyn is and begins to frequent Londyn's gym and place of employment to shop although Taylor rarely visited these places before the break-up. Leaving class one day, Londyn found a note from Taylor threatening them.

**Violation of a Mutual No Contact Order:** If either party violates the Mutual No Contact Order, a range of sanctions based on the nature of the breach, such as increased restrictions or disciplinary action, may occur.

**Violations of the Discrimination and Harassment Policy:** Compliance with the College's Discrimination and Harassment Policy is a condition of employment. The Office of Civil Rights Compliance will investigate any allegation of failure to report according to the mandatory reporter requirements, violation of a sanction, violation of a supportive measure, or direct a student or employee to not abide by the provision of the policy.

## WITHDRAW OR RESIGNATION WHILE ALLEGATIONS ARE PENDING

### **Student Withdraw**

If the student Respondent withdraws pending an investigation, the Respondent may choose to:

- complete the investigation and resolution process while not enrolled or postpone until the student requests to register again; or
- postpone the investigation and resolution process; the College will place a transcript and enrollment hold on their account until they request to register again.

If the student Respondent does not notify the Office of Civil Rights Compliance to complete the investigation, the College will postpone the investigation and resolution process and place a transcript and enrollment hold on their account until they request to register again.

If the student Complainant withdraws pending an investigation, the College will continue to address and remedy any systemic issues or variables that may have contributed to any ongoing effects of the alleged discrimination or harassment and may complete the investigation and resolution process.

### **Employee Resignation**

If the employee Respondent resigns pending an investigation, the Respondent may choose to:

- complete the investigation and resolution process while not employed or postpone until the employee requests to reapply for employment; or
- postpone the investigation and resolution process; the College will place an employment application hold and be ineligible for rehire until the process is completed.

If the employee Respondent does not notify the Office of Civil Rights Compliance to complete the investigation, the College will postpone the investigation and resolution process, and the employee is ineligible for rehire and resigned with a pending disciplinary matter.

If the employee Complainant withdraws pending an investigation, the College will continue to address and remedy any systemic issues or variables that may have contributed to any ongoing effects of the alleged discrimination or harassment and may complete the investigation and resolution process.

The records retained by the Office of Civil Rights Compliance and Human Resources will reflect that the employee is ineligible for rehire and resigned with a pending disciplinary matter.

## **STEP 5: FINDINGS AND SANCTIONS**

After the investigation is completed, the College will designate a three-member panel, referred to as the Hearing Panel, from a pool of designated trained employees or external professionals at the discretion of the Compliance Officer and will appoint one of the three members as the panel Chair. Members of the Hearing Panel will not have had any previous involvement with the investigation. The Compliance Officer may elect an alternate from the pool of designated trained professionals to sit in throughout the decision-making process if a substitute is needed.

Before the Hearing Panel meeting, the Compliance Officer will send notice of the hearing and the Final Investigation Report with all pertinent documentary evidence to the parties at least ten (10) business days before the hearing to review before determining the finding and sanction(s) if applicable. The Compliance Officer, Investigator, and the three Hearing Panelists will meet for the hearing without the Complainant and Respondent. The Investigator will present a summary of the Final Investigation Report. The Hearing Panelists

will be allowed to ask the Investigator questions about the Investigation Report or the Compliance Officer about process clarifications. The Investigator and the Compliance Officer will be present during the entire hearing process but will be dismissed by the Hearing Panelist Chair before deliberation.

Upon completion of the hearing, the Hearing Panel will prepare a determination notification and provide it to the Compliance Officer, detailing the determination, rationale, the evidence used to support its determination, and any sanction(s), if applicable.

The Hearing Panel will make a good-faith effort to deliver the findings to the Office of Civil Rights Compliance within ten (10) business days and not to exceed 30 business days. The Office of Civil Rights Compliance will issue each party a written Notice of Findings and Sanctions, including findings and sanctions if applicable, and continued supportive measures within ten (10) business days of receiving the determination notification. The Office of Civil Rights Compliance may extend this timeframe for cause. It will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## FINDINGS

In the context of our process, the Office of Civil Rights Compliance refrains from employing the terms guilty or not guilty. Instead, a Hearing Panel will determine whether the Respondent is 'responsible' or 'not responsible'. For a student or employee to be found responsible, the evidentiary standard must include the preponderance of the evidence for a determination that it is more likely than not that a violation of the Discrimination and Harassment Policy has occurred.

## SANCTIONS

Any person found responsible for violating the Discrimination and Harassment Policy may be assigned one or more sanctions.

**Class Removal:** A student may be removed from a course or moved to another course section.

**Discretionary Sanctions:** Work assignments, essays, and service to the College, program participation, or other related discretionary assignments, including a letter of apology, presentation of a workshop, performance improvement plan, training, preparation of a research paper or project, community service, evaluation of any referral assessment, or counseling, as deemed appropriate.

**Demotion:** An employee may be reassigned to a lower-grade position. Demotions may be within the same department, to another location at the College, or in another position in another department.

**Expulsion:** Permanent termination of student status without the possibility of readmission to the College. A standard of clear and convincing evidence must be the burden to issue an outcome of expulsion. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student's history in the Registrar's Office. Suppose a transcript is requested during the expulsion period. In that case, a letter will be sent with the transcript to the requesting party/institution stating the student has been expelled for conduct reasons. Only unofficial transcripts will be released to the student directly. Expulsion becomes a permanent part of a student's conduct record. Any refund of tuition or fees will be subject to the College's standard withdrawal policy.

**Job Reassignment:** An employee may be moved temporarily or permanently to a different position or location.

**Mutual No Contact Order:** A Mutual No Contact Order is an absolute prohibition from contact with a specified person or persons in any form, including contact in person, by phone, electronically, and through another person. A Mutual No Contact Order may be implemented as a sanction or a supportive measure. Supportive



measures can be implemented without formal complaints, conduct processes, or investigations. A new investigation may occur if there is an allegation of violating a Mutual No Contact Order.

**Probation:** A specified period during which the person is placed on formal notice that they are not in good standing with the College and that further violations of college regulations will subject them to suspension, expulsion, or termination from the College.

**Restitution:** Reimbursement for damages to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or compensate for damages.

**Restriction:** A limitation on a student's or employee's privileges for a period of time may include the denial of the use of facilities or access to locations on campus, denial of the right to represent the College, and denial of participation in extracurricular activities not directly associated with academics (e.g., intramural sports, organizations/clubs/associations, or leadership positions on campus, or other organizations).

**Revocation of Admission or Degree:** Admission to TCC, a College Program, or a degree awarded from the College may be revoked for fraud, misrepresentation, or other violation of College standards in obtaining the admission or degree or for other serious violations committed while a student at TCC.

**Suspension:** Suspension is the exclusion from all classes and other privileges or activities for a specific time as outlined in the notice of suspension. Suppose a transcript is requested during the suspension period. In that case, a letter will be sent with the transcript to the requested party/institution stating the student is under suspension for conduct reasons. Only unofficial transcripts will be released to the student directly. Any tuition refund or fees will be subject to the College's standard withdrawal policy.

**Termination:** Removal of employment for a full or part-time employee, including work-study students. Previous disciplinary action involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only viewed at the sanction stage of the process and is not shared until then. Sanctions shall not be implemented until the appeal deadline has expired, the entire appeal process is complete, or the individual voluntarily waives the right to appeal in writing.

**Written Warning:** An official written notice of violation of college policies.

Respondents assigned sanctions are expected to comply within the timeframe specified. Failure to follow through on sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions.

## **STEP 6: APPEALING THE FINDINGS AND SANCTIONS**

Either the Complainant or Respondent may request an appeal of the findings or sanctions. An appeal must be submitted in writing to the Office of Civil Rights Compliance within ten (10) business days of the delivery of the Notice of Findings and Sanctions letter.

The appeal process requires the Appeals Panel to review the appeal from the documentation provided without meeting with the Complainant or Respondent. The Appeals Panel will be chosen from a group of designated trained employees or external professionals. Members of the Appeals Panel will not have had any previous involvement with the investigation.

The appeal process is intended to be utilized when there is a documented error, new evidence is unavailable during the investigation, or the sanction is too severe related to the violation. Dissatisfaction with the finding and sanction is not grounds for approval of an appeal.

The Appeals Panel will review the request for an appeal to determine if the request meets the grounds for an appeal. The person who initiated the appeal must show the grounds for an appeal to have merit. A review of the appeal will be completed to determine if the request meets at least one of the three grounds for appeal and is filed timely.

## GROUNDINGS FOR AN APPEAL

An appeal is limited to the following:

- A procedural irregularity that affected the finding and sanction from the Hearing Panel;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made could affect the finding and sanction of the matter;
- The severity of the sanction.

Before the Appeals Panel review, the opposing party and the case investigator will be given ten (10) business days to provide a written response to the appeal. The Appeals Panel will review the record of the original resolution process, including documents, the appeal, and any written responses to the appeal, if applicable, and issue a finding as to the appeal's merit.

The Appeals Panel has ten (10) business days to render a decision. If the Appeals Panel finds merit in the appeal, the reason will be noted, and the case will be returned to the original Hearing Panel for another review. The original Hearing Panel has ten (10) business days to review and respond accordingly to the information from the Appeals Panel. The Office of Civil Rights Compliance may extend this time for cause and will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the appeal process. The decision of the Hearing Panels' second review is final.

If the Appeals Panel determines the appeal does not support one of the three grounds for an appeal, the appeal will be denied. The original decision of the findings and sanctions is finalized, and the process is complete.

## ENSURING IMPARTIALITY

The College's responsibility is to provide a fair and impartial process, with the acknowledgment that the process is often inescapably adversarial in nature between the parties, where contested allegations carry high stakes for all parties. It is crucial for those employees and external professionals who are responding to and resolving Civil Rights reports to remain neutral throughout the process. Yet, that neutrality can seem biased to the parties where they anticipated more of an advocacy role from the Office of Civil Rights Compliance.

The Compliance Officer coordinates the College's responses to all discrimination and harassment reports. This responsibility includes monitoring outcomes, identifying and addressing patterns of behaviors, and assessing effects on the campus climate with independence and authority free from bias and conflicts of interest. The Compliance Officer oversees all resolutions under this policy and these procedures. Investigators, Hearing Panelists, and Appeals Panelists are vetted and trained to ensure impartiality, no conflicts of interest exist, or disqualify biases for a party generally or against the Complainant or Respondent.

A conflict of interest can arise when a person's personal, financial, or professional interests have the potential to compromise their objectivity, impartiality, or fairness in a particular situation or decision. A conflict of interest can result in decisions or actions prioritizing personal gain or the interests of a related party over the other. An example of conflict of interest would be assigning someone to resolve a discrimination report where a family member is a Complainant, Respondent, or Witness.

A bias refers to a prejudiced inclination or favoritism toward a particular point of view from personal beliefs or stereotypes. An example of a potentially biased action would be if an Investigator only allowed a Complainant to provide evidence and extended more time for the Complainant than the Respondent to respond to the Preliminary Investigation Report. Both parties are encouraged to submit evidence and the same amount of time to review and respond to the Preliminary Investigation Report.

The investigation and resolution process involves objectively evaluating all relevant evidence, including evidence that the Respondent did or did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or Witness.

One of the best ways to proactively address conflict of interest, biased decision-making, and stereotyping concerns is to have a consistent and effective framework that includes training for those employees managing, investigating, and deciding the outcome of an investigation, along with following the same process for every report.

The employees involved in the adjudication process must complete several hours of training each month that includes but is not limited to discussions regarding:

- Definition of sexual harassment, the scope of the recipient's education program or activity;
- Conducting an investigation and resolution processes, including best practices for Investigations;
- Scrutinizing factual inconsistencies or errors more closely for either party;
- Serving impartially, including avoiding prejudgment of the facts;
- Decision-making free of stereotyping and bias to one's belief system; and
- Determining credibility that is not based on a person's status as a Complainant, a Respondent, or a witness.

The Office of Civil Rights Compliance follows the same process for every report submitted. The College may allow an employee to serve in multiple roles in the resolution process of an investigation. However, to ensure impartiality, the College strives only to assign employees to serve in one role, when possible. For example, an Investigator will not be serving on a Hearing Panel of a case in which they were the assigned investigator.

Upon receipt of the initial report, the Respondent is presumed not responsible for the alleged behaviors. After a comprehensive investigation, the Hearing Panel will determine if the Respondent is not responsible or responsible based on a preponderance of evidence.

If either the Complainant or Respondent has evidence that there is an actual bias by the assigned Investigator, Hearing Panelists, or Appeals Panelists that would impact the determination of the case, they can submit a written petition to the Compliance Officer for the person's removal from the process. The petition should explain and provide evidence of the biased actions and include specifics on how the actual bias by the assigned Investigator, Hearing Panelist, Appeals Panelists, or the individual making the final determination could impact the outcome. After reviewing the written petition, the Compliance Officer will determine if someone will be removed from involvement. If so, another individual will be assigned, and the impact of the bias or conflict, if any, will be remedied. Dissatisfaction with the Compliance Officer, Investigator, Hearing Panelists, and Appeals Panelist for functioning within their scope of work without evidence of conflict of interest or bias actions is not grounds for removal, and the request will be denied.

If the petition is filed against the Compliance Officer, the Vice President of Student Success and Chief Student Affairs Officer will review and respond to the petition. The decision by the Compliance Officer or Vice President of Student Success and Chief Student Affairs Officer, as outlined above, is final and non-appealable.

## INFORMAL RESOLUTION PROCESS

The College recognizes that some situations would be better resolved by a voluntary, remedies-based, structured interaction between or among affected parties and the College that balances support and accountability. The Informal Resolution Process aims to address conflicts and concerns more flexibly and less adversarial.

A discrimination and harassment report must be filed to proceed with an Informal Resolution. When a party requests an Informal Resolution, the Office of Civil Rights Compliance will review the matter to confirm that an Informal Resolution is appropriate.

All Informal Resolution processes will result in a written agreement, and the agreements will be managed, documented, and approved by the Compliance Officer to ensure consistency with the College's obligations. The College reserves the right to enter into an Informal Resolution with the Complainant without the Respondent's consent when the Respondent is an employee.

Upon approval of the Informal Resolution Agreement, any disciplinary process will be concluded, the matter will be closed, and both Parties will be provided with written notice. The Parties are bound by the terms of the Informal Resolution Agreement and may not request a formal investigation of the same matter.

Unlike a formal investigation, the Informal Resolution process does not involve an adjudication or the determination of responsibility.

The College will document any Informal Resolution agreement for retention by the OCRC, which will be kept confidential to the extent permitted by law. The Compliance Officer maintains records of any resolution reached. Failure to abide by the resolution agreement may result in appropriate disciplinary actions.

## CONFIDENTIALITY

The College will strive to maintain confidentiality to the full extent appropriate, consistent with applicable law and the need to resolve matters effectively and fairly and protect those within the College Community.

Reports of discrimination, harassment, or retaliation and investigations are kept confidential to the extent possible to resolve the allegations thoroughly and effectively. The College may have ethical and legal obligations to investigate, try to resolve, or adjudicate incidents of discrimination or harassment that are reported or discovered. Information about the Complaint will be shared only on a need-to-know basis to follow the procedures outlined in this policy and meet the College's obligation to address discrimination, harassment, or retaliation. All people involved in the proceedings are asked to respect the matter as confidential. Inappropriate breaches of confidentiality may result in disciplinary action.

Formal reporting still affords privacy to the Complainant; therefore, only a small group of officials who need to know will be informed. Human Resources may be involved in complaints against employees and Student Success & Equity for complaints against students. This small group of officials will typically be notified about the complaint, including Investigators, Hearing Panelists, or Appeals Panelists and supervisors, as deemed necessary.

No unauthorized audio or video recording is permitted during the investigation or resolution process. This restriction ensures the privacy and integrity of the investigation. If an Investigator chooses to audio or video record interviews as part of the investigative process, all recorded parties will be informed in advance.

All audio and video recordings made by the College during the process are considered its property. These recordings will be stored securely in a confidential file to maintain confidentiality, protect the privacy of individuals involved, and preserve the investigation's integrity.

## RETALIATION

The College will not tolerate retaliation against a person who, in good faith, brings a complaint under the Discrimination and Harassment policy forward. Retaliation against an individual who has brought a complaint forward or against an individual who has participated in an investigation or conduct process is prohibited. Prohibition against retaliation extends even if the Complainant does not want to request a formal investigation. Retaliatory actions include threats or actual violence against the person or that person's property, adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism. The College will impose outcomes on any faculty, student, or staff member found to be engaging in retaliation or on individuals who encourage third parties to retaliate on their behalf. If you experience any retaliation, be sure to contact the Office of Civil Rights Compliance immediately.

## DEFINITIONS

**Business Day:** Monday through Friday, except for federal or state holidays and other days, Tulsa Community College is closed. Deadlines may be extended during breaks and College holidays.

**College:** Tulsa Community College.

**College Official:** Includes any person employed by the College, performing assigned administrative or professional responsibilities, including all TCC-affiliated boards.

**College Premises:** The buildings or grounds owned, leased, operated, or substantially controlled by the College.

**Complainant:** An individual reported to have experienced conduct that could constitute sexual harassment, discrimination based on a protected category, or retaliation for engaging in a protected activity.

**Dean's Hold:** Restricts enrollment and may restrict transcript release.

**Discrimination:** Discrimination, including harassment, is defined as conduct directed at a specific individual or group that subjects the individual or group to treatment that adversely affects their employment, education, or access to institutional benefits based on race, color, national origin, sex, age, religion, qualified disability, status as a veteran, sexual orientation, gender identity, or genetic information.

**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. Intimidation, coercion, threats, force, or violence negates any consent obtained. Consent is ineffective if received from an individual incapable of giving consent due to lack of consciousness, age, mental disability, or incapacitation due to ingestion of drugs or alcohol. Consent can be revoked at any time.

Consent cannot be given by an individual who is asleep or mentally or physically incapacitated either through drugs or alcohol or for any other reason or under duress, threat, coercion, or force.

**Harassment:** Harassment is a form of discrimination that is defined as verbal or physical conduct that is directed at an individual based on race, color, national origin, sex, age, religion, qualified disability, status as a veteran, sexual orientation, gender identity, or genetic information when such conduct is severe, pervasive, or persistent, and objectively and subjectively offensive, such that it, has the effect of creating an intimidating, hostile, or offensive environment that limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

**Investigator:** The person or persons charged by the College with gathering facts about an alleged policy violation, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

**Investigation Report<sup>2</sup>:** The report of an investigation prepared by the Investigator after a report or complaint is filed, processed, and investigated.

**Notice of Investigation & Allegation:** A written statement provided to the Complainant and Respondent advising of an investigation and a specific statement of the allegation that will be investigated.

**OCRC:** Office of Civil Rights Compliance.

**Notice of Finding and Sanctions:** A letter provided to both parties at the end of the investigation will include the finding of responsible or not responsible and any sanctions if there is a finding of responsibility.

**Parties:** The Complainant(s) and Respondent(s), collectively.

**Privacy:** Information related to a complaint will be shared with a limited number of College employees who need the knowledge to assist in the report's assessment, investigation, and resolution. According to state and federal law, all employees involved in the College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information. The privacy of student education records will be protected per the Family Educational Rights and Privacy Act (FERPA). Employee records' privacy will be protected per the Records policy within the TCC Employee Handbook.

**Protected Class:** Groups of individuals protected from discrimination by law based on race, color, national origin, sex, age, religion, qualified disability, status as a veteran, sexual orientation, gender identity, or genetic information.

**Report:** For this policy, the report is about an allegation of discrimination and harassment communicated to the Compliance Officer. A report will prompt the OCRC to notify a Complainant about supportive measures and the process to file a formal complaint, but it does not prompt an investigation. A report is not required to be in writing and can be filed by a third party. A report can include an oral report, written report, personal observation, a media post, anonymous report, or other various means.

**Respondent:** An individual alleged to have exhibited conduct that could constitute discrimination, harassment based on a protected class, retaliation for engaging in a protected activity, or policy violation.

**Sanction:** A disciplinary action imposed on students or employees found responsible for violating this policy. Sanctions are designed to include educational measures that hold students and employees accountable for their behavior, providing the opportunity for behavior change. Sanctions can range from a written warning to expulsion and termination.

**Student:** A person who has been admitted or enrolled for the current or future term at Tulsa Community College, including all modes of remote instruction. Students who leave the College before a complaint is resolved may be prohibited from future enrollment until the matter is resolved.

**Student Code of Conduct:** The code of standards and expectations consistent with its purpose as an educational institution. The Student Code of Conduct conveys these standards and expectations.

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<sup>2</sup> There will be a Preliminary and Final Investigation Report. The Preliminary Investigation Report will be when the parties will review to provide their comments, and the Final Investigation Report is the document submitted to the Hearing Panel for a decision.

**Witness:** An individual requested to participate in an investigation because the individual may have information about the alleged misconduct.

## CIVIL RIGHTS PROCESS IN CONJUNCTION WITH A POLICE INVESTIGATION

A Civil Rights investigation is separate and different from law enforcement investigations. They have different standards of evidence and outcomes. An individual can pursue a college investigation by filing a report and pursuing criminal charges through the police. Therefore, a civil rights investigation and a police investigation may coincide. The TCC Police Department or local police department is the contact for a police investigation. The Compliance Officer is the contact for a discrimination and harassment investigation.

When concurrent criminal charges or civil action are pending, the College may adjudicate complaints without regard to civil action or criminal prosecution. College action(s) or processes are not typically altered or precluded because civil or criminal charges involving the underlying incident(s) have been filed or criminal charges have been dismissed or reduced. College processes may proceed before, during, or after court proceedings.

If circumstances require, the College may delay an investigation (several days to a few weeks). Such circumstances include a request from law enforcement to delay an investigation temporarily, the need for language assistance, the absence of parties or witnesses, and accommodations for disabilities or health conditions. The Office of Civil Rights Compliance reserves the right to formally commence the College's resolution process and comply with federal law.

The College will communicate in writing the anticipated duration of the delay and the reason to the parties and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

The College encourages individuals to report sexual violence and other criminal offenses to the police, although students and employees are not required to report the matter to the police. Reporting to the police does not commit an individual to prosecute but will allow for gathering information and evidence. The information and evidence are maintained for future options regarding criminal prosecution, College conduct actions, or civil actions against the Respondent.

On-campus incidents can be reported to TCC Police at (918) 595-8888 or any TCC Police location on the four main campuses. If the incident occurred elsewhere in Tulsa, it can be reported to the Tulsa Police Department at (918) 596-9328. All other incidents should be reported to local law enforcement with jurisdiction in the location where they occurred.

## RIGHTS AND RESPONSIBILITIES OF THE PARTIES AND WITNESSES

### COMPLAINANTS AND RESPONDENTS

Rights	Responsibilities
Provided an investigation and appropriate resolution into complaints of retaliation where one has reported a discrimination and harassment concern or participated as a witness in the process.	Be truthful, to cooperate with the process, and to follow the directions of the College staff administering the process;
Provided an impartial investigation by officials who are appropriately trained and do not have a conflict of interest or bias for or against either party.	Keep confidential all documents and materials received from the College during this process;
Promptly informed of the outcome of the resolution process in writing, without undue delay between the notifications to the parties; Simultaneously be provided a written notification of the finding, sanction, and explanation of the determination.	Not retaliate against or intimidate any individual who has reported a civil rights concern or who has participated as a witness in the process; and

Provided a written explanation of their rights and options, including counseling and other services, availability of changes existing, and how to request measures.	Should a Complainant or Respondent decide not to participate, the process proceeds absent their participation.
Treated with respect, dignity, and sensitivity throughout the process.	
Informed by TCC officials of options to notify proper law enforcement authorities and to be assisted in notifying such authorities if the Complainant chooses. The Complainant does have the right to decline to notify law enforcement. This also includes the right not to be pressured to report and the right to decline to notify law enforcement.	
Not discouraged by TCC officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.	
Notified of available counseling and other resources, both on campus and in the community.	
Have the ability to submit the names of relevant witnesses and to present evidence during the proceeding.	
Not have irrelevant prior sexual history considered.	
Receive regular updates on the status of the investigation or resolution;	
Participate in the investigation, including providing relevant information to the Investigator; Have a support person of their choosing attend but not participate during all phases of the investigation and resolution meetings.	
Provided an appropriate resolution of all credible allegations made in good faith; Provided proceedings in a reasonably prompt timeframe.	
Both parties will be provided an explanation of whether the determination may be appealed and by what procedures and the same options and opportunities for appeal.	
Only the Complainant and Respondent will receive details regarding any sanctions administered, any subsequent changes to any sanctions administered, and respective rationales included in a Notice of Findings and Sanctions.	
Both parties will be informed when a determination is final (post-appeal); and	
Remain confidential to the extent that such confidentiality will not impair the institution's ability to provide thorough investigation or measures.	

## WITNESSES

<b>Rights</b>	<b>Responsibilities</b>
To have a support person of their choosing attend but not participate during all phases of the investigation and resolution meetings.	To be truthful, to cooperate with the process, and to follow the directions of the College staff administering the process;
To be notified of available counseling and other resources, both on campus and in the community; and	To keep confidential all documents and materials received from the College during this process;
To be treated with respect, dignity, and sensitivity throughout the process.	Witnesses are responsible, as College employees, to participate when called upon as a witness; and
	To not retaliate against or intimidate any individual who has reported a civil rights concern or who has participated as a witness in the process.

## **SUPPORT PERSON**

The support person is an individual chosen by the student or employee, such as a parent, friend, or attorney, who has agreed to support a Complainant, Respondent, or Witness during the College investigation and resolution process. The College does not provide a support person for any party. Any compensation for a support person is the responsibility of the person being supported.



The role of a support person is to support and offer guidance. The role of a support person is not to act as a participant in the process, which comports with due process requirements. Support persons are limited to advising the individual and may not present information, ask questions, or make statements. A support person may not speak for or on behalf of someone. An individual can only have one support person in attendance at any given time.

If a support person does not act following the set limitations, they will be warned. If noncompliance persists, the support person must leave the meeting. To maintain fairness, impartiality, and the integrity of the investigative process, a support person cannot be directly involved in the investigation, including a Complainant, Respondent, Witness, Hearing Panelist, Investigator, or any other person materially involved in the case. Supervisors are not permitted to support a direct or indirect subordinate or in the supervising line of authority up to and including a cabinet member.

## **CONSENSUAL RELATIONSHIPS**

The College believes romantic or sexual relationships between individuals with a power differential can jeopardize the integrity of the mission to provide students with the freedom to pursue academic interests without preferential or unfair treatment, discrimination, or bias. Consensual relationships pose inherent risks when one of the parties at the College has responsibility or authority over the other. These relationships may be less consensual than perceived by the individual whose position confers power. All employees and students should recognize the possible negative consequences of romantic, intimate, or sexual liaisons in the institution's environment.

Even when both parties have consented to a romantic or sexual involvement at the outset, this past consent may not remove grounds for a later charge of violating applicable sections of this policy. The College does not wish to interfere with personal choices regarding personal relationships when they do not impede the College's goals and policies. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party may be unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and this will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities or transition a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. While this policy prohibits no relationships, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

## **DISABILITY ACCOMMODATIONS DURING AN INVESTIGATION**

The College is committed to providing qualified students and employees with disabilities with reasonable accommodations to ensure equal access to the College's academic programs, facilities, and activities.

Employees needing accommodations during a discrimination and harassment investigation and resolution process should contact the Human Resources Office to request accommodation. Students needing accommodations during a discrimination and harassment investigation and resolution process should contact the Director of Accessibility Resources at [ar@tulsacc.edu](mailto:ar@tulsacc.edu). For participants requesting an interpreter throughout the investigation process, please submit the "Request Interpreter or Captionist Services" form at <https://www.tulsacc.edu/ar>. Advance notice is requested.

The Compliance Officer will work with the designated office to ensure the approved accommodations are appropriately applied for full participation.

## ACADEMIC FREEDOM AND INTELLECTUAL INQUIRY

In this policy, the definition of discriminatory misconduct, including harassment and retaliation, is meant to neither proscribe nor inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters related to a practical pedagogical purpose. The College respects and is committed to fundamental principles of academic freedom and rights of freedom of speech and expression, as well as promotes intellectual inquiry and debate. The mere expression of views that might be offensive does not create a hostile environment or constitute a per se violation of this policy. Based on the protections afforded by academic freedom, speech, and other expression in the context of instruction, instruction content will not be considered prohibited conduct unless the speech or expression meets the definition of discrimination or protected-status harassment under the Discrimination and Harassment policy. The College is committed to protecting academic freedom and to creating a learning and working environment free of discrimination and harassment misconduct.

## REVISION OF THIS POLICY AND PROCEDURES

This document's existing policy and procedures supersede any previous policies or procedures addressing discrimination and harassment. They will be reviewed and updated annually by the Compliance Officer. The College may need to modify policies or procedures as laws and our environment change. The College reserves the right to amend or review this document's rules, policies, and procedures as necessary and without prior notice. When the changes are made public and available online, they are considered in force.

During the resolution process, the Compliance Officer may modify procedures that do not materially jeopardize the fairness owed to any party, such as accommodating summer schedules or working locations. The Compliance Officer may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedures.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws that frame such policies and codes.

## EXTERNAL REPORTING

If a complaint is not resolved at the College level, an individual may file a complaint with the Office for Civil Rights.

Department of Education - Office for Civil Rights  
Kansas City Offices  
One Petticoat Lane  
1010 Walnut Street, Suite 320, Kansas City, MO 64106  
Telephone: 1-816-268-0550; FAX: 1-816-268-0599; TDD: 1-800-877-8339  
Email: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)  
<http://www.ed.gov/ocr/>

This policy is effective September 10, 2024.

## OKLAHOMA DEFINITIONS

State of Oklahoma statutory definitions of criminal offenses classified pursuant to the Clery Act signed in 1990, codified at 20 USC § 1092(f), with implementing regulations in the US Code of Federal Regulations at 34 CFR 668.46 The following are Oklahoma definitions, which is applicable to criminal prosecutions for sex offenses. Oklahoma definitions may differ from the definition used on campus to address policy violations. These state definitions are included for Clery/VAWA Sec. 304 compliance purposes.

### I. Consent: (21 Okla. Stat. § 113)

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;
  - 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.

### II. Dating Violence (22 Okla. Stat. § 60.1)

Dating violence is not specifically defined under Oklahoma law, however "intimate partners" are addressed by the domestic abuse definition, below.

"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.

"Dating relationship" means 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.

### III. Domestic Violence: (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;

"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.

"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;
- c. persons otherwise related by blood or marriage living in the same household; and

d. persons otherwise related by blood or marriage.

#### IV. Sexual Assault (21 Okla. Stat. § 112)

The term "sexual assault" is any type of sexual contact or behavior that occurs without explicit consent of the recipient including, but not limited to, forced sexual intercourse, forcible sodomy, child molestation, child sexual abuse, incest, fondling and all attempts to complete any of the aforementioned acts. In any criminal jury trial of a crime involving any type of sexual contact or behavior where "consent" is an element of the crime or a defense raised by the accused, the court shall instruct the jury on the definition of consent as such term is defined in Section 113 of this title.

"Rape" (22 Okla. Stat. § 60.1) means rape and rape by instrumentation in violation of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes.

#### Rape (21 Okla. Stat. § 1111)

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 contractor 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 a school system;
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; or
10. Where the victim is a student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this subsection with a perpetrator who is an employee of the institution of higher education of which the victim is enrolled.

B. "Employee of an institution of higher education", for purposes of this section, means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years

of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher education.

C. 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 (21 OS § 1111.1)

A. 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.

B. Provided, further, that at least one of the circumstances specified in Section 1111 of this title has been met; further, where the victim is:

1. 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 a school system;

2. 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;

3. 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; or

4. A student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this section with a perpetrator who is an employee of the institution of higher education of which the student is enrolled.

C. "Employee of an institution of higher education", for purposes of this section, means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher education.

D. 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.

#### V. Stalking (22 Okla. Stat. § 60.1.)

Stalking means the willful, malicious, and repeated following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued.

Unconsented contact or course of conduct includes, but is not limited to:

a. maintaining a visual or physical proximity to the individual;

- b. approaching or confronting that individual in a public place or on private property;
- c. appearing at the workplace of the individual or contacting the employer or coworkers of the individual;
- d. appearing at the residence of the individual or contacting the neighbors of the individual;
- e. entering onto or remaining on property owned, leased or occupied by the individual;
- f. contacting the individual by telephone, text message, electronic message, electronic mail, or other means of electronic communication or causing the telephone or electronic device of the individual or the telephone or electronic device of any other person to ring or generate notifications repeatedly or continuously, regardless of whether a conversation ensues;
- g. photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the individual. This subparagraph applies regardless of where the act occurs;
- h. sending any physical or electronic material or contacting the individual by any means, including any message, comment, or other content posted on any Internet site or web application;
- i. sending to a family member or member of the household of the individual, or any current or former employer of the individual, or any current or former coworker of the individual, or any friend of the individual, any physical or electronic material or contacting such person by any means, including any message, comment, or other content posted on any Internet site or web application, for the purpose of obtaining information about, disseminating information about, or communicating with the individual;
- j. placing an object on, or delivering an object to, property owned, leased or occupied by the individual;
- k. delivering an object to a family member or member of the household of the individual, or an employer, coworker, or friend of the individual, or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the individual; or
- l. causing a person to engage in any of the acts described in subparagraphs a through k of this paragraph.

VI. Harassment (22 Okla. Stat. § 60.1.)

"Harassment" means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes and fear of death or bodily injury.