5.5 TITLE IX POLICY (amended date 9.4.25)

Overview

The Regional University System of Oklahoma ("RUSO") and its member universities are committed to providing an educational, living and working environment that is free from discrimination based on sex for all members of its community to include students, faculty, staff, contractors, and visitors. The member universities are East Central University, Northeastern State University, Northwestern Oklahoma State University, Southeastern Oklahoma State University, Southwestern Oklahoma State University, and University of Central Oklahoma. For purposes of this Policy, sex-based misconduct includes act of sexual harassment, sexual misconduct, dating violence, domestic violence, and stalking.

The purpose of this Policy is to provide RUSO and its member universities with a clearly articulated set of behavioral standards, common understanding of definitions and key concepts, and descriptions and examples of prohibited conduct, including sexual harassment, sexual violence, stalking, and domestic and dating violence. All members of RUSO are expected to adhere to the requirements of this Policy and to the standards of each member university. It is intended to guide students, faculty, staff, and other employees who have been affected by sexual harassment or misconduct, whether as a Complainant, Respondent, or a third party.

This Policy prohibits all forms of sexual or sex-based harassment, discrimination, or sexual misconduct, including sexual violence, sexual assault, and stalking. Misconduct of this nature is contrary to the RUSO's and each member university's institutional values and prohibited by state and federal law, as referenced by Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 and related implementing regulations. RUSO will review this Policy periodically in order to ensure compliance with legal requirements and improve the institutional response, including support services and resources. RUSO may modify this Policy at any time for compliance with federal, state, local law, or applicable guidance.

5.5.1 Applicability

This Policy applies to all campus community members, including students, faculty, staff, contractors, and visitors within the member university's control. It applies to conduct that occurs in an educational program or activity including locations, events, or circumstances over which the member university exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any RUSO or member university owned or controlled premises and buildings owned or controlled by student organizations officially recognized by the university. This Policy applies regardless of the sex or sexual orientation of the parties. In accordance with regulations issued by the United States Department of Education, this Policy does not apply to conduct occurring against a person outside the United States or conduct that is not specifically addressed herein.

Alleged conduct reported pursuant to this Policy, whether or not the conduct constitutes a violation of this Policy, may violate other RUSO or university policies. The member university reserves the right to take disciplinary action for conduct reported under this Policy that constitutes a violation of any other university policy. If dismissal, suspension, or any other discipline of a faculty member or student is recommended as a result of a violation of this policy, the RUSO Title IX policy is the exclusive forum for such discipline and any appeals related thereto. The processes related to dismissal, suspension, or any other discipline set forth in RUSO policy Chapter 3 (Academic Affairs) and Chapter 4 (Student Affairs) and any related member university policies are superseded hereby and do not apply to faculty or students who have been found to have violated the RUSO Title IX policy and the discipline recommended as a result thereof. In the case of any conflict between the terms of the general policies of RUSO policy Chapter 5 and the RUSO Title IX policy, the terms of the RUSO Title IX policy shall prevail.

5.5.2 Definitions**

The definitions provided in this Policy are the definitions adopted by the Regional University System of Oklahoma. State law definitions, as applicable, are included in Appendix A for the Oklahoma statutory definition. In the event a criminal investigation is conducted by law enforcement, the state law definition will apply.

a. Advisor – Both the Complainant and Respondent are entitled to be accompanied to any meeting or hearing under this Policy by an advisor of their choice, who may, but need not be, an attorney. If a Complainant or Respondent does not select an advisor for a hearing under this Policy, the member university will provide the party with an advisor, at no cost to the party, for the purpose of conducting cross-examination at the hearing.

b. Complainant - the individual who is alleged to be the victim of any prohibited conduct under this Policy, or, in limited circumstances, the member university.

c. Consent - Effective consent is informed, freely and actively given, using mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Initiators of sexual activity are responsible for obtaining effective consent. Silence or passivity is not effective consent. The use of intimidation, coercion, threats, force, or violence negates any consent obtained. Consent is not effective if obtained from an individual who is incapable of giving consent due to lack of consciousness, age, mental disability, or incapacitation due to the use of drugs or alcohol.

d. 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:

i. The length of relationship;
ii. The type of relationship; and
iii. 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. Dating Violence does not include acts that meet the definition of Domestic Violence. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

e. Domestic Violence – Domestic violence is crime of violence committed by a:

i. current or former spouse or intimate partner of the victim;

ii. person with whom the victim shares a child in common;

iii. person who is cohabitating with or has cohabited with the victim as a spouse or intimate partner;

iv. person similarly situated to a spouse of the victim under the domestic or family violence laws of Oklahoma;

v. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Oklahoma.

Domestic violence is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions, or threat of actions that influence another person. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

f. False Report – Intentional false accusations sexual harassment or sexual violence.

g. Formal Complaint – a document submitted by a Complainant or signed by the Title IX Coordinator or Deputy Title IX Coordinator alleging sexual harassment against a Respondent and requesting the respective member university investigate the allegation of a violation of this policy.

h. Incapacity/Incapacitation – occurs when an individual is incapable, temporarily or permanently, to give consent, because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. An individual may be incapacitated if they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in a sexual interaction.

i. Preponderance of the Evidence – the greater weight of the evidence. For an individual to be found responsible for violating this Policy, the information must support a determination by a preponderance of the evidence, that it is more likely than not that a violation of this Policy occurred.

j. Respondent – an individual who has been reported to be the perpetrator of conduct

that could constitute a violation of this Policy.

k. Responsible Employee – a member university employee who has the duty to report information related to incidents reasonably believed to be violations of this Policy to the Title IX Coordinator or Deputy Title IX Coordinator. All RUSO employees and member university employees are considered Responsible Employees including but not limited to unit heads, academic administrators, faculty members, staff, intercollegiate athletic administrators, and coaching staff members. Responsible Employees must report all known information concerning the incident to the Title IX Coordinator or the Deputy Title IX Coordinator, which report should include whether a Complainant has expressed a desire for confidentiality in reporting the incident.

l. Sexual Assault - an offense that meets the definition of rape, fondling, incest, or statutory rape:

i. *Rape* – the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the other person;

ii. *Fondling* – the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the other person, including instances where the other person is incapable of giving consent because of his/her age or because of his/her temporary or permanent incapacity;

iii. *Incest* – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;

iv. *Statutory Rape* – sexual intercourse with a person who is under the statutory age of consent.

m. Sex Discrimination – occurs when an individual is treated less favorably on the basis of that person's sex, which may also include on the basis of sexual orientation, pregnancy or pregnancy-related condition, or a sex stereotype. Sexual harassment, as defined in this Policy, is a form of Sex Discrimination.

n. Sexual Harassment – conduct on the basis of sex that satisfies one or more of the following:

i. A person acting on behalf of the RUSO or a member university in a position of authority conditioning the provision of any aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo);

ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity;

iii. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct that explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment;

iv. Sexual assault as defined herein;

v. Dating violence as defined herein;

vi. Domestic violence as defined herein; or

vii. Stalking as defined herein.

Subsections (i) and (iv)-(vii) in this definition are not evaluated for severity, pervasiveness, or offensiveness, because such conduct is sufficiently severe to deny access to the member university's education program or activities. Any instance of quid pro quo sexual harassment, sexual assault, dating violence, or stalking are considered Sexual Harassment under this Policy.

o. Stalking – refers to one who engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress.

i. **Course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

ii. **Reasonable person** means a person under similar circumstances and with similar identities to the victim.

iii. **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

p. Supportive Measures – non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the member university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the member university's educational environment, or deter Sexual Harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

**The definitions provided in this policy are the definitions adopted by the Regional University System of Oklahoma (RUSO). State law definitions, as applicable, are included in Appendix A for the Oklahoma statutory definition. In the event that a criminal investigation is conducted by law enforcement agencies, the state law definition will apply.

REPORTING INCIDENTS AND/OR FILING A FORMAL COMPLAINT

5.5.3 Distinction Between Report and Formal Complaint.

This Policy distinguishes between reporting incidents of Sexual Harassment and filing a Formal Complaint regarding an incident of Sexual Harassment. Reporting incidents of Sexual Harassment informs the member university of the incident, allowing the member university to provide Supportive Measures to the Complainant and does not necessarily result in the initiation of the grievance process (as described in Section 4.03 of this Policy). Complainants who report incidents of Sexual Harassment will be offered individualized

Supportive Measures. If a Complainant wishes to initiate the grievance process, he/she must file a Formal Complaint.

5.5.4 Reporting

All forms of sex-based misconduct should be reported to the member university, no matter the severity. RUSO's primary concern is safety; therefore, individuals should not be deterred from reporting for any reason, even if the use of alcohol or other drugs was involved. RUSO and the member universities encourage those impacted by sex-based misconduct to talk to someone about what happened so they can receive support and the member university can respond appropriately. The member universities offer both confidential services and non-confidential reporting options, as outlined below.

1. Reporting to the Member University.

a. **Confidential Reporting Options**. Confidential service options provide students and employees with the ability to confidentially share and discuss an incident of sex-based misconduct without the reporting party's information being shared with the member university. Please be aware that reporting to confidential services limits the member university's ability to respond to incidents. While these individuals are not required to report to the member university, they may have reporting or other obligations under state law, such as mandatory reporting to law enforcement in cases involving minors, imminent harm to self or others, or requirements to testify if subpoenaed in a criminal case.

i. **Professional Counselors**. Professional and licensed counselors who provide mental health counseling (including those who act in that role under the supervision of a licensed counselor) are not required to report any information. Included in this category are counselors at the member university's Counseling Center, Psychological Services Clinic and those provided by the Employee Assistance Program.

ii. **Member University Health Providers**. Member University health service providers are a confidential service option.

b. **Non-Confidential Reporting Options.** Any person may report an incident, whether or not the individual reporting is the person alleged to be the victim of the incident. Reports may be verbal or in writing to the Title IX Coordinator or Deputy Title IX Coordinator. Each member university has its own Title IX Coordinator who can be reached at the following email addresses.

East Central University - TitleIX@ecok.edu
Northeastern State University - TitleIX@nsuok.edu
Northwestern Oklahoma State University – TitleIX@nwosu.edu
Southeastern Oklahoma State University - TitleIX@se.edu
Southwestern Oklahoma State University - TitleIX@swosu.edu
University of Central Oklahoma - TitleIX@uco.edu

i. **All Employees**. When an incident of sex-based misconduct is reported to any employee, the employee is encouraged to report the incident to the Title IX Coordinator or the Deputy Title IX Coordinator. Responsible Employees are required to report incidents of sex-based misconduct.

ii. **Campus Security Authorities.** In compliance with the Clery Act, some employees are identified as a Campus Security Authority ("CSA"). CSAs are identified through the Clery Act and outlined in the member university's Annual Safety Report available on the member university's website. These individuals are required to report instances of sex-based misconduct, along with other misconduct, to campus Police for statistical purposes. CSAs must report all relevant details about the allegations shared by the victim, including names, date, time, and specific location of the alleged incident to the campus

Police and to the Title IX Coordinator or the Deputy Title IX Coordinator.

iii. **Responsible Employees**. Responsible Employees are those who are mandated to report to the Title IX Coordinator or the Deputy Title IX Coordinator when they become aware of an incident of sex-based misconduct. RUSO and member university employees are considered Responsible Employees, as further defined in Section 1.02(j), above. Responsible Employees who become aware of developing situations, or who desire assistance in appropriately responding to such situations, may seek assistance from the Title IX Coordinator or the Deputy Title IX Coordinator. Failure by a Responsible Employee to promptly report or seek assistance regarding sex-based misconduct may result in corrective action.

2. Reporting to Law Enforcement.

RUSO and member universities strongly encourage individuals to report sex-based misconduct that may be a criminal offense, and any other criminal offenses, to the police. Reporting to the police does not commit a victim to proceed with prosecution, but will allow the gathering of information and evidence, which can preserve future options regarding criminal prosecution, member university conduct/grievance actions, and/or civil actions against the perpetrator.

On-campus incidents should be reported to the campus police, in person or by telephone. If the incident occurred off campus, it can be reported to local law enforcement with jurisdiction in the location where it occurred.

3. Reporting to External Entities.

Individuals who have experienced or are experiencing sex-based harassment or discrimination also have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)
One Petticoat Lane
1010 Walnut Street, Suite 320
Kansas City, MO 64106
PHB Phone: (816) 268-0550
Facsimile: (816) 268-0559
TTY: (800) 877-8339
Email: OCR.KansasCity@ed.gov
Web: http://www.ed.gov/ocr

U.S. Department of Justice, Civil
Rights Division
950 Pennsylvania Avenue, N.W.
Educational Opportunities Section,
Washington, D.C. 20530
Email: education@usdoj.gov
Phone: (202) 514-4092
Toll-Free: (877) 292-3804
Facsimile: (202) 514-8337

5.5.5 Filing a Complaint within RUSO

Complainants may file a Formal Complaint with the Title IX Coordinator or the Deputy Title IX Coordinator. In order for corrective or disciplinary action to be taken against a RUSO or member university employee or student, it may be necessary for a signed Formal Complaint to be filed and for the Complainant to cooperate with the member university's Investigative process. A Complainant alleging sexual harassment may be offered Individualized Supportive Measures. A signed Formal Complaint can be provided to the Title IX Coordinator or Deputy Title IX Coordinator by mail, email, or in person. The Formal Complaint must include the specific allegations and name of the Respondent(s). Title IX Coordinators may proceed with Formal Complaints without a Complainant signing it.

5.5.6 SUPPORTIVE MEASURES

Member universities offer Supportive Measures for students and employees impacted by an occurrence of sex-based misconduct. A Formal Complaint does not need to be submitted for Supportive Measures to be put in place. The member university will maintain confidentiality to the extent possible. Supportive Measures are non-disciplinary and non-punitive measures that do not unreasonably burden the other party. Supportive Measures may include, but are not limited to:

- **Assistance in reporting**: Support in filing a complaint with the member university and/or the appropriate law enforcement agencies.
- **No contact order**: A no contact order can be put into place between the Complainant and the Respondent, to prohibit contact or limit contact between

both parties through any means of communication, as well as prohibit others from making contact on their behalf.

• **Safety measures**: Coordination of any reasonable arrangements that are necessary for ongoing safety. This includes transportation arrangements or providing an escort.

• **Work schedule adjustments**: Assistance in changing on-campus work schedules, work assignments, supervisor responsibilities, or other work arrangements.

• **Leaves of absence**: A pre-approved defined period away from the work environment. (employees only)

• **Living arrangements**: Assistance in changing on-campus living arrangements to ensure a comfortable living situation.

• **Academic arrangements**: Assistance in adjusting academic schedules as well providing access to academic support services. (students only)

• **Other supportive measures**: Coordination of other reasonable arrangements to address the effects of the sex-based misconduct, including connecting individuals with counseling or health care.

FORMAL COMPLAINT PROCESS

5.5.7 Reporting

Member universities are obliged to act when they receive "actual knowledge" of allegations of Sexual Harassment. Persons who believe they have been subject to prohibited Sex Discrimination or Sexual Harassment are encouraged to seek assistance, to directly report such conduct to appropriate supervisors, or to directly report such conduct to the Title IX Coordinator or Deputy Title IX Coordinator.

5.5.8 Emergency Removals

Applicable only to students and participants in a member university's educational program or activity, an emergency removal is a removal, either partially or entirely, of a student or participant from the member university or its educational programs and activities on an emergency basis when an individualized safety and risk analysis has determined an

immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies removal. The individualized risk assessment will be conducted by the appropriate member university personnel, in conjunction with the member university's team that assesses behavior (e.g. Behavioral Assessment Team) using its standard risk assessment procedures. A removed student will receive a written notice of the decision, which notice will include information about how the student may challenge the removal decision.

5.5.9 Initial Assessment

Upon receiving a Formal Complaint, the Title IX Coordinator or Deputy Title IX Coordinator will conduct an initial assessment and provide information about Supportive Measures. At the conclusion of the preliminary inquiry, the Title IX Coordinator will provide the Complainant with information regarding the appropriate procedural process. The Complainant will be advised if the information discovered during the preliminary inquiry warrants proceeding with the grievance process as outlined in this Policy or if the allegations, if true, may constitute a violation of another member university Policy. If the information does not warrant proceeding under this Policy, the case will be dismissed under this Policy (see Section 4.07 for more information on dismissals).

5.5.10 Investigation Notice

After a Formal Complaint is received, if it is determined there is sufficient evidence to proceed with an investigation, a written notice and copy of the Title IX procedures will be provided to the Complainant and Respondent. The notice will detail the allegations, to include, if known, the identities of the parties, the date and location of the incident, and the specific alleged Policy violation(s). The notice will also state the Respondent is presumed not to be responsible until a determination of responsibility becomes final. The notice will advise both parties of their right to have an advisor of their own choosing.

a. **Employee Respondents.** When the Respondent is an employee, the notice will also be provided to the Respondent's supervisor and the appropriate senior administrator, with sensitivity to protect the privacy of the Complainant and Respondent. When the Respondent is an employee, informal resolution as provided in this policy is not available.

5.5.11 Investigation

A trained investigator, or multiple trained investigators, if necessary, will be assigned. The investigator(s) will conduct a fair, thorough and impartial investigation. The Respondent is presumed not responsible until a determination of responsibility is final. Both parties will have an equal opportunity to present facts, witnesses, and evidence to support their positions, with no restrictions on the parties' ability to discuss the investigation. Both parties will have an equal opportunity to attend any proceedings, along with their advisor. Reasonable efforts will be made to conduct interviews with all parties and relevant witnesses in a timely fashion.

a. **Delaying Investigation.** When a law enforcement agency is conducting its own investigation into the alleged conduct, the member university's investigation may be delayed temporarily to meet the specific needs of the criminal investigation.

b. **Investigation Notice.** A notice will be sent to the parties prior to each investigation meeting. In all instances, the member university, not the Complainant, will bear the responsibility for investigating and taking appropriate action, including the decision to seek disciplinary action against a Respondent.

c. **Amended Notice.** In the event new allegations or potential violations of Policy arises during the investigation that were not included in the initial investigation notice, an amended notice will be sent to the parties outlining the additional allegations.

d. **Role of the Advisor.** During participation in the investigative process, the Complainant and Respondent have the right to choose an individual who will serve as advisor. The advisor's role is to assist the Complainant and Respondent in understanding and navigating through the investigative process. An advisor may not be a witness in the same investigation, or whose participation will create a conflict of interest. The advisor shall not impede or act in a manner that obstructs or disrupts the investigative process.

5.5.12 Investigation Report

Upon conclusion of the investigation, the investigator will prepare a report summarizing

his/her findings. The investigation report will be provided to the Complainant and Respondent. To confirm accuracy, both the Complainant and Respondent will have ten (10) business days to review the investigation report and provide feedback to the investigator about their account of information.

5.5.13 Dismissal Prior to Hearing

During the initial assessment or during the course of an investigation, a determination may be made that issues surrounding the case do not rise to a violation of this Policy.

a. Pursuant to applicable law, the Complaint must be dismissed in the following circumstances:

i. The conduct alleged does not meet the definition of any prohibited conduct under this Policy;

ii. The alleged conduct did not occur on RUSO or member university-owned or controlled premises;

iii. The alleged conduct did not occur in the member university's education program or activity;

iv. The alleged conduct did not occur against a person in the United States; or

v. If at the time of a Formal Complaint, the Complainant is not participating in or attempting to participate in the member university's education program or activity.

b. At the discretion of the Title IX Coordinator or Deputy Title IX Coordinator the following are additional grounds for dismissal:

i. If the Complainant requests in writing to dismiss a Formal Complaint or any allegations therein;

ii. The Respondent is no longer enrolled in or employed by the member university; or

iii. Any specific circumstances exist which prevent the investigator from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations therein; or

c. If a Formal Complaint is dismissed for any of the above reasons, the Complainant and Respondent will be provided a written notice of the

dismissal and the reason(s) for dismissal. In addition, if the alleged misconduct may be addressed by another member university policy or process, that information will be included in the written notice of dismissal.

i. **For Employee Respondents.** If a Formal Complaint against an employee Respondent is dismissed, the Title IX investigation will be closed administratively, and all parties, including the appropriate supervisor or Department Head and Administrator, will be notified in writing of the administrative closure. The findings and determination as to any non-Title IX Policy violation will be forwarded to Human Resources for review and subsequent actions.

ii. **For Student Respondents.** A Formal Complaint being dismissed under this Policy does not preclude it from being addressed through the Student Code of Conduct.

d. A Complainant or Respondent may appeal a dismissal by following the procedures outlined in Section 6.03.

HEARING PROCEDURES

5.5.14 Title IX Hearing

Upon the conclusion of an investigation involving a RUSO or member university employee or student as a Respondent, the Complainant and Respondent will be notified in writing with the name and contact information of a panel of trained Decision Makers assigned to conduct a live hearing that will be recorded by audio or audio visual means. The Decision Maker shall consist of at least three (3) individuals, one of which shall serve as the chair of The Decision Maker panel. The Complainant and Respondent will be provided the Scheduled date, time and location of the hearing, as well as written information regarding the hearing process. Within ten (10) business days of receipt of the notification, both parties may provide the Decision Maker with the name and contact information of their Advisor for the hearing, supporting evidence and a list of witnesses. If either the Complainant or Respondent is unable or chooses not to name an Advisor, one will be selected by the member university's Title IX Coordinator for the respective party. At any

time during the process, requests for extensions to provide information or to reschedule hearings may be made and approved by the Decision Maker panel in its sole discretion. Any request for an extension must be in writing, no later than two (2) days prior to the applicable due date. All parties and Advisors will be notified of approved extensions in writing. If the Decision Maker determines that a Respondent violated this Policy, the possible sanctions range from a written admonishment or reprimand to dismissal.

a. **Title IX Hearing Location.** The privacy of both parties is taken into consideration when determining the location of the hearing. A request by either party may be made that both parties will participate in the hearing from separate rooms. The designated rooms will be furnished with audio and visual equipment to allow both parties to see and hear each other during the hearing process.

b. **Attendance at Title IX Hearing.** While information from the Complainant, Respondent, and witnesses to the incident may be included in the Investigation Report, if a party or witness does not appear at the Title IX Hearing to be available for cross-examination, the Decision Maker cannot rely on any statement of that party or witness in reaching a determination regarding responsibility. The Decision Maker also may not draw an inference about the determination regarding responsibility based solely on the absence of a party or witness. It is the responsibility of the parties to arrange for the attendance of any witnesses. The member university cannot compel or mandate attendance at the Title IX Hearing.

c. **Title IX Hearing Process.** At the beginning of the hearing, the Decision Maker shall set forth the rules of procedure for the hearing. The Decision Maker is allowed to question information provided by the parties, for relevancy, and ask questions before determining if the information provided is admissible. Each party is allowed a reasonable time to present their opening statement.

The Complainant will present their case first in all phases of the hearing.

Each party is allowed to ask relevant questions of their respective witnesses, followed by cross-examination by the other party's Advisor. Cross- examination must be conducted by the other party's Advisor. The parties may not under any circumstances conduct cross-examination. If necessary, a party will be allowed additional time for follow-up questions of their witness, followed by additional time for cross-examination by the other party's Advisor. The Decision Maker will determine whether questions asked during cross-examination by an Advisor are relevant.

The Decision Maker may also ask questions of the parties and witnesses for clarification.

The process will be repeated until all testimony is concluded.

d. **Standard of Evidence.** The standard of evidence to be used to make a determination is Preponderance of the Evidence. Under this standard, the burden of proof is met when the party with the burden convinces the Decision Maker there is a greater than 50% chance that the claim is true.

e. **Title IX Hearing Determination.** Following the hearing, the Decision Maker will issue a written determination, generally within five (5) business days. In the event circumstances require more time to issue a written determination, the Decision Maker will notify the parties. The written decision will include the following elements:

i. the allegations made against the Respondent;

ii. a description of the procedural steps undertaken, including notifications to parties, interviews and site visits, methods used to gather evidence, and hearings;

iii. findings of fact that support the determination;

iv. an explanation regarding the result of each allegation, including a determination as to whether the Respondent did or did not violate this Policy as to each allegation;

v. any disciplinary actions/sanctions against the Respondent, and any remedies to be provided to the Complainant; and

vi. procedures and bases for appeal.

f. **Effect of Hearing Determination.** The determination will become final one (1) day after the appeal deadline set in Section 6.01. The Title IX Coordinator will coordinate the implementation of any remedies. Copies of the written determination will be provided to both parties, and their respective department heads to include the Deans, the Provost's office, and/or Vice Presidents.

g. **Advisor.** The Complainant and Respondent may have their own Advisor of choice. If either the Complainant or Respondent is unable or chooses not to name an Advisor, the member university will provide an advisor selected by the member university's Title IX Coordinator. During the hearing, questions asked to the other party must be asked through the participant's Advisor. If the participant's Advisor does not follow applicable protocol in the hearing resulting in the Advisor's privileges being withdrawn or an Advisor being barred from the hearing, the Title IX Coordinator will appoint an advisor to assist in asking questions to other participants.

5.5.15 In all non-harassment cases (i.e. cases of disparate treatment, discrimination, retaliation, and false reporting) the Investigator will be the Decision Maker in the outcome of the case in lieu of the hearing process described below unless such matters are consolidated with harassment allegations. When the Investigator serves as the Decision Maker, following the parties' review of the Investigation report, the Investigator, who may be the Title IX Coordinator, will objectively evaluate all relevant evidence and determine responsibility.

Following the Investigator's evaluation of the relevant evidence, the Investigator

will issue a written determination. That written determination will include the following:

a. Identification of the allegations potentially constituting Sex Discrimination or Retaliation;

b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination of responsibility, including any notices to the parties, interviews with partis and witnesses, site visits, methods used to gather evidence, and the process held;

c. Findings of fact supporting the determination;

d. Conclusions regarding the application of this Policy to the facts;

e. A statement of, and rationale for, the result as to each allegation (Where credibility of the parties is an issue in determining Preponderance of the Evidence, the rationale will include an explanation of how the Investigator resolved questions of credibility. Credibility determinations will not be based upon a person's status as Complainant or Respondent);

f. If applicable, a sanction and/or remedy sufficient to restore access for the Complainant; and

g. The procedures and permissible basis for appeal.

APPEALS

5.5.16 Time for Appeal

A Complainant or Respondent may appeal in writing either a dismissal of a Formal Complaint or the Title IX Hearing Determination within ten (10) days of notification of such determination on the grounds set forth in Section 6.02.

5.5.17 Grounds for Appeal

A Complainant or Respondent may appeal either a dismissal of a Formal Complaint or the Title IX Hearing Determination for the following reasons:

a. A procedural irregularity occurred that affected the outcome of the matter;

b. New evidence that was not reasonably available at the time the Title IX Hearing Determination or dismissal was made, that could affect the outcome of the matter; or

c. The Title IX Coordinator, Deputy Title IX Coordinator, investigator(s), or Decision Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

5.5.18 Appeal Process

Upon receiving a written appeal, the Title IX Coordinator or Deputy Title IX Coordinator will notify the other party.

a. **Appeals.** An Appellate Officer(s), who is not the same person as the Title IX Coordinator, investigator(s), or Decision Maker in the Title IX Hearing, will be assigned. The non-appealing party will have seven (7) days from the notification of appeal to submit a written response. The Appellate Officer will consider the appeal, any response submitted, and the record of the Title IX Hearing and make a written determination within ten (10) business days, which determination will be sent to both parties and will be final.

i. If the Appellate Officer finds there is no merit to any of the grounds cited in the appeal, it will issue a finding as such and that decision will be final.

ii. If the Appellate Officer finds there was a procedural irregularity that affected the outcome of the matter, the matter may be remanded for a new Title IX Hearing before the original Decision Maker.

iii. If the Appellate Officer finds new evidence exists that was not reasonably available that could affect the outcome, the matter may be remanded to the original Title IX Hearing Decision Maker.

iv. If the Appellate Officer finds that the Title IX Coordinator, investigator(s), or Decision Maker had a conflict of interest or bias for or against the parties (generally, or specifically in this matter) that affected the outcome of the matter, the case may be remanded to a new Title IX Hearing before a different Decision Maker.

INFORMAL RESOLUTION

5.5.19 Informal Resolution

At any time after the filing of a Formal Complaint but not less than ten (10) days prior to a live hearing, either party may request an informal resolution. Informal resolution is an available option when both parties voluntarily agree to participate and if the Title IX Coordinator agrees that informal resolution is appropriate given the nature of the allegations and the relationship of the parties. When the Respondent is an employee, informal resolution is not available.

The member university's informal resolution process is facilitated by the Title IX Coordinator or personnel in Student Affairs, Human Resources, or University Ombuds services. If the parties reach agreement during the informal resolution process, the facilitator will reduce the agreement to writing and present it to the Title IX Coordinator, who may approve or disapprove the agreement. An approved informal resolution agreement will be recognized as a binding agreement between the parties. Once the parties have entered into an approved informal resolution agreement, the grievance will be deemed resolved and may not be re-opened.
If the non-requesting party declines to participate, chooses to withdraw from participation, or if informal resolution is not successful, the grievance process continues.

RETALIATION

5.5.20 Retaliation

Retaliation is any adverse action taken against a person because of that person's

participation in protected activity. In accordance with the member universities nonretaliation policies, RUSO and the member universities strictly prohibit retaliation against any person for making any good faith report of discrimination, harassment, or sexual misconduct or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of discrimination, harassment, or sexual misconduct. Any person who engages in such retaliation shall be subject to disciplinary action, up to and including termination, in accordance with applicable procedures. Any person who believes they have been subjected to retaliation is encouraged to promptly notify the Title IX Coordinator. The member university will promptly investigate all claims of retaliation.

RECORDKEEPING

5.5.21 Records

In implementing this Policy, records of all reports, complaints, investigations, resolutions, and records of any action taken under this Policy including Supportive Measures will be kept by the Title IX Coordinator for each respective member university (or designee) depending on the nature of the report or complaint. The records will be kept for a minimum of seven (7) years following final resolution. Such records shall include documentation that neither RUSO nor its member universities were deliberately indifferent to any report pursuant to this Policy and the basis for such conclusion.

5.5.22 Annual Security Reports

Each member university disseminates a public annual security report Annual Security Report ("ASR") to employees and students every October 1st. The ASR includes statistics Of campus crime for the preceding 3 calendar years, plus details about efforts taken to Improve campus safety. The report includes: definitions of sexual harassment, what to do if you are victimized, support services, on and off campus resources, preventive measures and the sex offender registration. Additionally, there are policy statements regarding crime reporting, campus facility security and access, incidence of alcohol and drug use, and the prevention of/response to sexual assault, domestic and dating violence, and stalking.

TRAINING

5.5.23 Training

Member universities will ensure the Title IX Coordinator, Deputy Title IX Coordinator, Title IX Investigators, and Decision Makers do not have conflicts of interest or any bias for or against the Complainant or Respondent. These persons will receive mandatory training on the topics of sexual harassment, and sex-based misconduct, to include how to conduct investigations, how to conduct hearings and appeals, and how to remain impartial throughout the process.

Appendix A

State Law Definitions

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

1. Given by an individual who:

a. is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason, or

b. is under duress, threat, coercion or force; or

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

a. the absence of an individual saying "no" or "stop", or

b. the existence of a prior or current relationship or sexual activity.

21 Okla. Stat. § 113

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

22 Okla. Stat. § 60.1.

Domestic violence is not defined in Oklahoma law. However, the criminal definition of ***domestic abuse*** is defined as: Any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member. "Family or household members" means: (a) parents, including grandparents, stepparents, adoptive parents and foster parents, (b) children, including grandchildren, stepchildren, adopted children and foster children, and (c) persons otherwise related by blood or marriage living in the same household. "Intimate partner" means:
(a) current or former spouses, (b) persons who are or were in a dating relationship, (c) persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time, and (d) persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner but is never a necessary condition.
22 Okla. Stat. § 60.1.

Sexual assault:

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

b. forcible sodomy, as defined in Section 888 of [Title 21].

21 Okla. Stat. § 142.20.

Rape (as used in the definition for "sexual assault")*:*

A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

1. Where the victim is under sixteen (16) years of age;
2. Where the victim is incapable through mental illness or any other

unsoundness of mind, whether temporary or permanent, of giving legal consent;

3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;

4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;

5. Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;

6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;

7. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim; or the subcontractor or employee of a subcontractor of the state or federal government, a county, a municipality or a political subdivision that exercises authority over the victim;

8. Where the victim is at least sixteen (16) years of age and is less than Twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of the same school system; or

9. Where the victim is nineteen (19) years of age or younger and is in the legal

custody of a state agency, federal agency or tribal court and engages in sexual intercourse with a foster parent or foster parent applicant.

B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.

21 Okla. Stat. § 1111

Rape by instrumentation (as used in the definition of "sexual assault"):

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

Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

21 Okla. Stat. § 1111.1.

Forcible sodomy (as used in the definition of "sexual assault"):

A. Any person who forces another person to engage in the detestable and Abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a period of not more than twenty (20) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, a violation of Section 1123 of this title or sexual abuse of a child pursuant to Section 843.5 of this title, or of any attempt to commit any of these offenses or any combination of the offenses, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age;
2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime;
3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime;
4. Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state; or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision of this state;
5. Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system;
6. Sodomy committed upon a person who is at the time unconscious of the nature of the act, ad this fact should be known to the accused; or
7. Sodomy committed upon a person where the person is intoxicated by a narcotic or anesthetic agent administered by or with the privity of the accused as a means of forcing the person to submit.
8. Sodomy committed upon a person who is at least sixteen (16) years of age but less than eighteen (18) years of age by a person responsible for the child's health, safety or welfare. "person responsible for a child's health, safety or welfare" shall include, but not be limited to: (a) a parent, (b) a legal

guardian, (c) a custodian, (d) a foster parent, (e) a person eighteen (18) years of age or older with whom the child's parent cohabitates, (f) any other adult residing in the hold of the child, (g) an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.2 of Title 10 of the Oklahoma Statutes, or (h) an owner, operator or employee of a childcare facility, as defined by Section 402 of Title 10 of the Oklahoma Statutes.

21 Okla. Stat. § 888 (effective June 6, 2016).

Stalking:

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

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

For purposes of this section:

1. "Harasses" means a pattern or course of conduct directed toward another individual that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim. Harassment shall include harassing or obscene phone calls as prohibited by Section 1172 of this title and conduct prohibited by Section 850 of this title. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of

two or more separate acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct";

3. "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling;

4. "Unconsented contact" means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Constitutionally protected activity is not included within the meaning of unconsented contact. Unconsented contact includes but is not limited to any of the following:

a. following or appearing within the sight of that individual,

b. approaching or confronting that individual in a public place or on private property,

c. appearing at the workplace or residence of that individual,

d. entering onto or remaining on property owned, leased, or occupied by that individual,

e. contacting that individual by telephone,

f. sending mail or electronic communications to that individual, and

g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

5. "Member of the immediate family", for the purposes of this section, means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who regularly resided in the household within the prior six (6) months.

6. "Following" shall include the tracking of the movement or location of an individual through the use of a Global Positioning System (GPS) device or other monitoring device by a person, or person who acts on behalf of another, without the consent of the individual whose movement or location is being tracked; provided, this shall not apply to the lawful use of a GPS device or other monitoring device or to the use by a new or used motor vehicle

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

21 Okla. Stat. § 1173.