Message from the President on Sexual Misconduct

The University of Oklahoma is a place where students should feel safe to live, study and work. Students should feel safe discussing sensitive topics like sexual misconduct. When and if they choose to talk with University officials, students should know that the University will investigate those reports.

Thank you for helping create a safe, respectful campus community in which we can all study, live and work.

Sexual misconduct can mean many things. The University’s definition of prohibited sexual misconduct might surprise you because it might differ from your cultural beliefs and practices. Here is a list of the University’s definitions:

**Sexual Harassment:** unwanted sexual attention or action based on ones’ gender that is so severe, persistent or pervasive that it unreasonably interferes with the work or educational environment.

**Sexual Violence:** physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. A number of acts fall into the category of sexual violence, including but not limited to rape, sexual assault, sexual battery, sexual misconduct and sexual coercion.

**Non-Consensual Sexual Intercourse:** any sexual intercourse or penetration of the anal, oral, vaginal, genital opening of the victim, including sexual intercourse or penetration by any part of a person’s body or by the use of an object, however slight, by one person or another without consent or against the victim’s will. This definition includes rape and sexual assault, sexual misconduct, and sexual violence.

**Non-Consensual Sexual Contact:** any intentional touching of the victim’s intimate body parts (primarily genital area, groin, inner thigh, buttock or breast), however slight whether clothed or unclothed, with any object or body part, by a man or a woman upon a man or a woman, without consent. It also includes the touching of any part of a victim’s body using the perpetrator’s genitalia and/or forcing the victim to touch the intimate areas of the perpetrator. This definition includes sexual battery and sexual misconduct.

**Sexual Coercion:** the act of using pressure (including physical pressure, verbal pressure or emotional pressure), alcohol, medications or drugs, or force to have sexual contact against someone’s will or with someone who has already refused. This includes rape, sexual assault, sexual exploitation and sexual misconduct.

**Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or suffer substantial emotional distress.
Relationship Violence: threatening or causing physical harm, extreme verbal abuse, or other conduct, which threatens or endangers the health and safety of another person between those in an intimate relationship to each other.

Consent
According to OU’s Sexual Misconduct Policy, consent is:

The act of willingly agreeing to engage in sexual contact or conduct. Individuals who consent to sex must be able to understand what they are doing. Under this policy, “No” always means “No,” and the absence of “No” may not mean “Yes”.

1. Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.
2. Consent to one form of sexual activity cannot imply consent to other forms of sexual activity.
3. Previous relationships or consent cannot imply consent to future sexual acts.
4. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity.
5. In order to give effective consent, one must be of legal age and have the capacity to consent. Incapacity may result from mental disability, intellectual disability, unconsciousness, age, or use of alcohol, drugs, medication, and/or other substance.
6. Use of alcohol, medications, or other drugs will not excuse behavior that violates this policy.

There must be clear evidence of ACTIVE CONSENT to ensure that the sexual activity is not a policy violation.

- A person’s silence or failure to resist or say “No” is not considered active consent.
- When a person has had alcohol to drink, they might be incapacitated and unable to give consent. For example, when the person is slurring their speech, stumbling when they walk, or vomiting, the person may be incapacitated by alcohol and not legally able to give valid consent. Having intercourse under these circumstances would place you at risk for a policy violation.
- Anyone under the age of 18 in the United States is also unable to give valid consent.

According to federal law, the University must investigate complaints of sexual misconduct and take all steps to stop the behavior and correct the situation, regardless of whether criminal charges or investigations exist. A person found responsible for a policy violation could be suspended or expelled from the University. As an international student, any policy violation could result in problems with your visa. While you are in the United States, you must follow this policy at the University.

The following scenarios will show how certain activity could be considered a University policy violation.
Scenarios

Scenario 1

At an international student party, a group of foreign exchange students from Morocco are having a great time and drinking the trash-can punch (made up of a variety of alcohol and extremely intoxicating). One of the women, Elise, asks if another exchange student, Joseph, wants to dance with her and he does. She seems attracted to him and wants to take him back to her dorm room. She stumbles as she walks and her speech is slurred, but she is still laughing and saying she really shouldn’t have had that fourth drink. They get to her room and start kissing. She does not seem responsive, but is not resisting Joseph’s advances. Because it is late, Joseph thinks she is tired. He lays her on the bed and starts undressing her. Although she is awake, she is not responding the way he had hoped. She doesn’t stop him, so he has intercourse with her and leaves. The next day, he receives a call from the University’s Sexual Misconduct Officer about a complaint that he raped Elise according to University policy. Was this a policy violation?

A. Yes, Elise was incapacitated and gave no clear indication of consent. She had 4 trash-can punches; she stumbled when she walked and had slurred speech; although she did not resist the advances and was awake, Joseph knew she was not actively involved in the intercourse. Consent requires clear WORDS or ACTIONS, giving the sexual aggressor a clear indication that consent to the activity is freely given. Elise’s self-intoxication and invitation to her room are insufficient to provide clear consent. The fact she is a foreign student does not eliminate the policy violation.

B. No, Elise initiated the intimacy and invited him to her room. She never told him “No” and did not resist Joseph’s advances. He didn’t provide her with the alcohol so he did not attempt to get her drunk and take advantage of her.

{The correct answer is A}
Scenario 2

Two international, married students are studying in the U.S., earning doctoral degrees and are living in Kraettli Apartments on campus. Over the past several weeks, the wife has disobeyed some of her husband’s requests and he has begun hurting her. The neighbors hear him hitting her and see her bruises when she leaves the apartment. Her professors also notice her bruises and inquire what has happened. She does not call the police and refuses to file an official University complaint, but it is clear that he has been hitting her. Can the University take action?

A. Yes, because both students are living on University property and/or are both University students, the University can take action when it is apparent that he is violent with his spouse (or girlfriend) even if the spouse/girlfriend does not wish to file a complaint. The University has an obligation to protect her, as well as the rest of the University community, from this behavior.

B. No, because she is his wife and will not file a complaint, there is nothing the University can do.

(The correct answer is A)

Scenario 3

A male exchange student shares a class with a United States female graduate assistant who starts waiting for him after class and trying to talk to him and walk him to his car. He is polite to her, but does not show any desire to date her. She starts emailing him and asking him to respond to her. He ignores her emails, but the emails continue at a rate of about 10 emails per hour asking him to respond. He has started noticing that she is following him everywhere he goes on campus. He feels silly raising this as an issue because he is a male and capable of taking care of himself, but she has now found his cell phone number and has started calling and texting him frequently. He is worried that if he refuses to date her, she can negatively affect his grades. Is this a potential policy violation and what can the University do?

A. Yes, constant following or harassing communications can be gender-based stalking regardless of the gender. The University can issue “no contact” orders, block emails and take additional disciplinary actions. Graduate assistants are not permitted to date their students. Additionally, OUPD can provide support and assistance in filing a criminal complaint.

B. No, the University can’t do anything because he is a male and the policy only protects females.

(The correct answer is A)