

Ouachita Baptist University Sexual Misconduct Policy

I. INTRODUCTION

Ouachita Baptist University strives to be an academic community of vision, integrity, and service grounded in faith, scholarship, growth, character, and community. The University is committed to establishing a safe, Christ-centered learning community and is committed to addressing all forms of unlawful harassment and discrimination to achieve this goal.

This Policy outlines the University's community expectations to ensure a campus free from sexual misconduct, the steps for recourse for those individuals whose rights have been violated, and the procedures for determining a violation of University policy. The Policy applies to the following forms of sex discrimination, which are referred to collectively as "sexual misconduct": sexual or gender-based harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation. Allegations of sex discrimination that do not involve sexual misconduct will be handled in accordance with the Non Discrimination Policy. For the University's more general nondiscrimination policy, please see <https://obu.edu/about/consumerinfo/>

The Ouachita community recognizes that human sexuality is a gift from God for procreation of human life and for the expression of one's love through marriage. While some portions of this Policy may address intimate or sexual activities outside of marriage, such discussions should not be seen as condoning these actions. At the same time, an individual's engagement in intimate or sexual activities outside of marriage does not excuse sexual misconduct carried out against that individual. The University is committed to protecting the members of its community against sexual misconduct—regardless of the context in which it arises.

II. NOTICE OF NON-DISCRIMINATION

In accordance with applicable federal and state laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, and the Americans with Disabilities Act and ADA Amendments, the University does not unlawfully discriminate on the basis of sex, gender, race, color, national origin, age, disability, genetic information, veteran status, religion, or any other protected status under federal, state or local law applicable to the University, in its education policies, programs, and activities, in its admissions policies in employment policies and practices, and all other areas of the University. As a faith-based institution, the University is exempted from certain laws and regulations concerning discrimination.

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Sex Discrimination is conduct based upon an individual's sex that excludes an individual from participation, denies the individual the benefits of, treats the individual differently, or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a program or activity. Sexual harassment is a form of sex discrimination. In accordance with Title IX, this Policy addresses the University's prohibition of the following forms of sex discrimination: sexual harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation.

The University will not tolerate sexual misconduct in any form. The University will promptly and equitably respond to all reports of sexual misconduct in order to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community.

Inquiries or complaints about Title IX, sex discrimination, sexual harassment, or other forms of sexual misconduct may be directed to the University's Title IX Coordinator:

Ian Cosh
Title IX Coordinator
Ouachita Baptist University
TitleIX@obu.edu, Elrod Center 6th street, 8702455320 .
coshi@obu.edu

Inquiries or complaints may also be directed to the U.S. Department of Education's Office for Civil Rights:

The Office of Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: (800) 421-3481
Facsimile: (202) 453-6012 TDD#: (800) 877-8339
Email: OCR@ed.gov
<http://www.ed.gov/ocr>

III. SCOPE OF THE POLICY

This Policy applies to all University community members including students, faculty, administrators, staff, trustees, volunteers, vendors, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the University or on University property. All University community members are required to follow University policies and local, state, and federal law.

This Policy applies to sexual misconduct committed by or against a University community member, including conduct that occurs on campus or University property, conduct that occurs at University-sanctioned events or programs that take place off campus, such as study abroad and internships, and off campus conduct that may cause or threaten to cause an unacceptable disruption at the University or which may interfere with an individual's right to a non-discriminatory educational or work environment.

This Policy applies regardless of the sexual orientation or gender identity of any of the parties. Although the University maintains its right to uphold and apply its religious beliefs with regard to sexual orientation and gender identity, the University has no tolerance for any form of sexual misconduct committed against any individual, regardless of the individual's sexual orientation or gender identity. Individuals are strongly encouraged to report all incidents of sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation, even when the individual has a concern that they have engaged in conduct that may violate provisions of the University's Tiger Handbook related to sexual activity.

IV. DEFINITIONS

PROHIBITED CONDUCT

Sexual Misconduct: As used in this Policy, sexual misconduct means the following forms of sex discrimination and other misconduct: sexual and gender-based harassment, sexual assault, domestic violence, dating violence, stalking,¹ and sexual exploitation, as each of those terms is defined below.

Sexual Harassment: A form of sex discrimination that may involve any member of the campus community regardless of gender. Sexual harassment is unwelcome conduct of a sexual or gender-based nature, including sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature, when:

- submission to such conduct, either explicitly or implicitly, is made a condition of an individual's employment or educational experience, or the individual's submission or rejection of such conduct is a basis for an employment, academic, or other educational decision ("quid pro quo" harassment); or
- such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's employment or education, or of creating an intimidating, hostile, or offensive employment or educational environment ("hostile environment" harassment).

Hostile environment harassment exists when there is unwelcome conduct that is sufficiently severe, pervasive/persistent, and clearly/objectively offensive that it alters the conditions of education or employment. The circumstances to determine when an environment is "hostile" could include:

- the frequency of the conduct;
- the nature and severity of the conduct;
- whether the conduct was physically threatening;
- the effect of the conduct on the victim's mental or emotional state;
- whether the conduct was directed at more than one person;
- whether the conduct arose in the context of other discriminatory conduct;
- whether the conduct unreasonably interfered with the victim's educational or work performance;
- whether the conduct was merely a discourteous, rude, or insensitive statement;
- whether the speech or conduct deserves the protections of academic freedom.

Examples of sexual harassment may include, but are not limited to:

- repeated and unwelcome sexual flirtations, attention, advances, or propositions;
- requests for sexual favors;
- punishing or threatening to punish a refusal to comply with a sexual-based request;
- offering a benefit (such as a grade, promotion, or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature;
- verbal abuse of a sexual nature or obscene language;

¹ Some instances of dating violence, domestic violence, and stalking may not be sexual in nature. For purposes of this policy, the term "sexual misconduct" encompasses all instances of dating violence, domestic violence, and stalking (as those terms are defined in this Policy), regardless of whether there is a sexual component to the behavior.

- gender- or sexually-oriented jokes and comments;
- verbal commentary about an individual's body, sexual innuendo, suggestive commentary about a person's clothing and appearance;
- displaying derogatory or sexually suggestive pictures or other objects in an office, in a residence hall, or on a computer monitor;
- visual conduct such as leering or making gestures;
- unwanted kissing;
- unwelcome touching of a sexual nature such as patting, pinching, or brushing against another's body;
- gossip about sexual relations;
- cyber or electronic harassment.

Unwelcome conduct: Conduct is unwelcome when the individual did not request or invite it and regarded the conduct as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct or sexual contact does not necessarily mean that person welcomes other conduct or sexual contact. Similarly, that a person willingly participates in conduct or sexual contact on one occasion does not necessarily mean that the same conduct or sexual contact is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident, including various objective and subjective factors.

Sexual Assault: Sexual assault is any actual or attempted sexual contact, with any object, with another person without that person's consent.

As used in this Policy, sexual contact includes intentional contact by the accused with the victim's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; or forcing another to touch oneself or him/herself with or on any of these body parts. Sexual assault includes but is not limited to an offense that meets any of the following definitions:

- 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 victim.
- Fondling: the touching of the intimate parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape: sexual intercourse with a person who is under the statutory age of consent; in Arkansas the age of consent is 16.

Sexual assault also is prohibited by Arkansas law. See Arkansas Code § 5-14-101 et seq. for applicable criminal law definitions of criminal sexual offenses.

Consent: Words or overt actions by a person clearly communicating a freely-given agreement to perform a particular sexual act. Words or overt actions clearly communicate consent when a reasonable person in the circumstances would believe that those words or actions indicate a willingness to participate in a mutually agreed-upon sexual activity. Although consent does not need to be verbal, verbal communication is the most

reliable form of asking for and obtaining consent. It is the responsibility of the person initiating the specific sexual activity to obtain consent for that activity.

The definition of consent is subject to the following:

- Consent is affirmative, unambiguous, and voluntary.
- Consent is active, not passive. Silence or the absence of resistance or saying “no,” in and of themselves, cannot be interpreted as consent.
- Consent to one form of sexual activity does not, by itself, constitute consent to any other forms of sexual activity.
- Previous relationships or previous consent do not, by themselves, constitute consent to future sexual acts. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.
- Consent can be withdrawn at any time. When consent is withdrawn, the sexual activity for which consent was initially provided must stop.
- Consent cannot be procured, expressly or implicitly, by use of physical force, intimidation, threats, or **coercion**, as that term is defined below.
- There can be no consent to sexual activity with someone known to be—or who should be known to be—mentally or physically **incapacitated**, as that term is defined below.
- Use of alcohol or other drugs will never function to excuse behavior that violates this Policy.
- Consent can only be given if one is of legal age. In Arkansas, the legal age of consent is 16.

Coercion: Conduct or intimidation that would compel an individual to do something against their will by the use of unreasonable pressure, physical force, or threats of severely damaging consequences, that would reasonably place an individual in fear of immediate or future harm. Coercion is more than an effort to persuade or attract another person to engage in sexual contact or sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone uses to obtain consent from another.

Incapacitation: The physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to the influence of drugs or alcohol, incapacitation requires more than being under the influence of drugs or alcohol. Incapacitation is determined based on the facts and circumstances of the particular situation looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation, whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent, and whether such condition was known or reasonably known to the respondent or a reasonable sober person in respondent’s position.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim’s statements with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For purposes of this Policy, dating violence includes but is not limited to causing physical injury, engaging in conduct that creates a substantial risk of physical injury, or creating apprehension of imminent physical injury. Dating violence can be a single event or a pattern of behavior. Dating violence does not include acts covered under the definition of domestic violence.

Dating violence also is prohibited by Arkansas law. Arkansas law prohibiting domestic battering and assault includes but is not limited to causing physical injury, engaging in conduct that creates a substantial risk of physical injury, or creating apprehension of imminent physical injury between persons who are or having been involved in a romantic or intimate social relationship. See Arkansas Code § 5-26-301 et seq. for applicable criminal law definitions relating to domestic battering and assault.

Domestic Violence: A felony or misdemeanor crime of violence committed by:

- 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 a current or former cohabitant of 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 the jurisdiction in which the crime of violence occurred; or
- any other person against an adult or youth victim who is protected from that person's acts under applicable domestic or family violence laws of Arkansas (or, if the crime occurred outside of Arkansas, the jurisdiction in which the crime of violence occurred). In addition to the relationships described above, Arkansas law defines domestic violence to include violence committed between family or household members, including spouses, former spouses, parents, children, persons related by blood, and persons who are presently or in the past have been in a dating relationship together.

Domestic violence also is prohibited by Arkansas law. See Arkansas Code § 5-26-301 et seq. for applicable criminal law definitions relating to domestic battering and assault. While not exhaustive, the following are examples of conduct that can constitute domestic violence: (1) causing physical injury; (2) engaging in conduct that creates a substantial risk of physical injury; (3) or creating apprehension of imminent physical injury.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

- Such a 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.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.
- Reasonable person means a reasonable person in the victim's circumstances.

Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive communications by phone, mail, text message, email and/or other electronic communications, including social media;
- Repeatedly leaving or sending the victim unwanted items, presents or flowers;
- Following or lying in wait for the victim at places such as home, school, work or recreational facilities;
- Making direct or indirect threats to harm the victim or the victim's children, relatives, friends or pets;

- Damaging or threatening to damage the victim’s property;
- Repeated posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth that would cause a person to feel threatened or intimidated;
- Unreasonably obtaining personal information about the victim.

Stalking also is prohibited by Arkansas law. See Arkansas Code § 5-71-229 for applicable definitions of criminal stalking.

Sexual Exploitation: Occurs when an individual takes sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, without consent.

Sexual exploitation may include, but is not limited to:

- Intentional and repeated invasion of sexual privacy (e.g., walking into the other person’s room or private space);
- Prostituting another person;
- Taking or distribution of photographs/images, video or audio-recording, or electronically broadcasting (e.g., with a web cam) a sexual activity;
- Intentional removal or attempted removal of clothing covering an individual’s intimate parts;
- Intentionally allowing others to view/hear a sexual encounter (such as letting individuals hide in the closet or watch consensual sex);
- Engaging in voyeurism;
- Viewing or permitting someone else to view another’s sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy;
- Knowingly transmitting an STI (sexually transmitted infections) or HIV to another person without his/her knowledge;
- Exposing one’s genitals or breasts;
- Inducing another person to expose his/her genitals or breasts;
- Forcing others to view pornography.

Retaliation: Any adverse action, or threat thereof, taken against a person for making a good faith report or complaint of a potential violation of this Policy, supporting another person’s report, participating in good faith in a complaint resolution process, or opposing in good faith a practice or conduct that the person reasonably believes is in violation of this Policy. Retaliation may include, but is not limited to intimidating, threatening, coercing, harassing, or in any way discriminating against an individual. See the Retaliation section below for more information.

OTHER DEFINITIONS

Victim: An individual who is alleged to have been subject to conduct that violates this Policy.

Accused: An individual who has been accused of prohibited conduct under this Policy.

Complainant: The individual filing a complaint with the University under this Policy. In addition, the term “complainant” may also be used to refer generally to persons alleged to have been subjected to conduct that violates this Policy, whether or not they have filed a complaint.

Respondent: The individual named as the accused in a complaint with the University under this Policy.

Report: An account of sexual misconduct that has allegedly occurred that could be provided to the University by the complainant, a third party, or an anonymous source.

Complaint: An alleged policy violation that begins the complaint resolution process as set forth in the Procedures for Sexual Misconduct Complaint Resolution.

Title IX Coordinator: The designated staff member of the University with primary responsibility for coordinating Title IX compliance efforts, and who generally oversees the complaint investigation and resolution process, documents the findings and decisions, and maintains official records. For more information regarding the Title IX Coordinator's role, see the section below, Responsibilities of Title IX Coordinator and Title IX Team.

V. RESPONSIBILITIES OF TITLE IX COORDINATOR AND TITLE IX LEADERSHIP COMMITTEE

The University's Title IX Coordinator is the designated representative with primary responsibility for coordinating the University's efforts to end sexual misconduct, prevent its recurrence, and address its effects. The Title IX Coordinator oversees and monitors the University's overall compliance with Title IX-related policies and developments; the implementation and oversight of grievance processes and procedures, including review, investigation, and resolution of reports of sexual misconduct; the provision of educational materials and training for the campus community; and monitoring all other aspects of the University's Title IX compliance. These responsibilities (which may be carried out by the Title IX Coordinator or the Title IX Coordinator's designee) include, but are not limited to:

- Ensuring University policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a complainant, a respondent, or a third party, about the procedural options and processes used by the University, and about resources available at the University and in the community;
- Training and assisting any University employees regarding how to respond appropriately to a report of sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence, stalking, or sexual exploitation;
- Monitoring full compliance with all procedural requirements and time frames outlined in this policy;
- Evaluating allegations of bias or conflict of interest relating to these procedures;
- Determining whether grounds for appeal under this policy have been properly stated;
- Ensuring that appropriate training, prevention, and education efforts, and periodic reviews of the University's climate and culture take place;
- Coordinating the University's efforts to identify and address any patterns or systemic problems revealed by reports and complaints; and
- Assisting in answering questions related to this policy.

The University's Title IX Team includes the Title IX Coordinator, as well as appointed staff and faculty designees who may also be called upon to investigate complaints of sexual misconduct, resolve complaints, review appeals, and/or facilitate informal resolutions to conflicts or complaints.

VI. CONFIDENTIALITY

The University is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. The University will protect a victim's confidentiality to the extent possible, regardless of whether the victim specifically requests confidentiality.

The University encourages individuals who believe they have experienced sexual misconduct to talk to someone about what happened. Different people on campus have different reporting responsibilities and different abilities to maintain privacy or confidentiality, depending on their roles at the University. Some individuals and campus resources can offer confidentiality while others have specific obligations to respond when they receive a report of a crime or a campus policy violation.

In making a decision about whom to contact for support and information, it is important to understand that most University employees are not confidential resources, and are therefore obligated to report to the University any information they receive about sexual misconduct. Individuals who have experienced sexual misconduct are encouraged to consider the information in the following sections regarding confidential and non-confidential communications in choosing whom to contact for information and support.

In addition, although the University will strive to protect the privacy of all individuals involved to the extent possible consistent with the University's legal obligations, the University may be required to share information with individuals or organizations outside the University through reporting or other obligations under federal and state law, such as reporting of Clery Act crime statistics and mandatory reporting of child abuse and neglect. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, the University may be subject to a subpoena or court order requiring the University to disclose information to law enforcement and/or the parties to a lawsuit. In such cases, personally identifying information will not be reported to the extent allowed by law and, if reported, affected students will be notified consistent with the University's responsibilities under FERPA, as allowed by law.

CONFIDENTIAL COMMUNICATIONS AND RESOURCES

The University recognizes that some individuals may wish to keep their concerns confidential. If an individual chooses not to pursue action either within the University disciplinary process or the criminal justice system, the individual may still wish to speak with a confidential resource. Confidential communications are those communications which cannot be disclosed to another person, without the reporter's consent, except under very limited circumstances such as allegations involving the abuse, sexual abuse, neglect, sexual exploitation, or abandonment of a child (under the age of 18); abuse, exploitation, neglect or sexual abuse of an endangered/vulnerable adult; or an imminent threat to the life of any person. Individuals who desire the details of sexual misconduct to be kept confidential should speak with a medical professional, professional counselor, or minister or other pastoral counselor. These resources include:

- On Campus Resources
 - **Counseling Services**
870-245-5591
Evans Student Center
Mr. Dan Jarboe, LPC
Mrs. Sue Poole, LPC

- **Health Services**
870-245-5244
Evans Student Center
Dr. Wesley Kluck, MD
Mrs. Molly Wallace, RN

- **Campus Ministries**
870-245-5537
Evans Student Center
Mr. James Taylor, Director
Mrs. Anna Rosenthal, Asst. Director

Some confidential resources serve in multiple roles on campus. If you are seeking assistance of one of the confidential resources in their role as a confidential resource, you should contact them through the office contact information listed above and should make clear prior to disclosing any information that you are seeking their assistance as a confidential resource.

- **Off Campus Resources**

Ouachita Behavioral Health & Wellness
201 N 26th St., Arkadelphia, AR 71923
870-246-2143

A person who speaks with a confidential resource should understand that if the person does not report the concern to a non-confidential resource at the University, such as one of the University officials designated in the Reports section below, the University will be unable to provide certain interim actions or protective measures, conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource and do not report the concern to the University may later decide to file a complaint with the University or report the incident to local law enforcement.

NON-CONFIDENTIAL COMMUNICATIONS

Non-confidential communications are those communications with any University employee who is not a confidential resource as identified above. Only confidential resources can promise confidentiality. All other University employees who become aware of incidents or allegations of sexual misconduct must report the matter to the Title IX Coordinator. The University will protect the privacy of the individuals involved in a report of sexual misconduct to the extent possible and will only share information with other University employees on a need to know basis. The allegations will not be shared with law enforcement without the consent of the individual who has alleged the sexual misconduct, unless the allegations relate to physical abuse, sexual abuse, or neglect of a child under the age of 18 (see the Mandatory Reporting of Child Abuse section below for more information) or unless compelled to do so pursuant to a subpoena or court order.

University employees who are not confidential resources will strive to remind an individual of their reporting obligations before the individual has disclosed information that requires reporting to the Title IX Coordinator.

REQUESTS FOR CONFIDENTIALITY OR NON-ACTION

When the University receives a report of sexual misconduct, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the University does not require an individual to begin or participate in a complaint resolution process or to report to local law enforcement. However, based on the information gathered, the University may determine that it has a responsibility to move forward with a complaint resolution process (even without the participation of the individual who has alleged the sexual misconduct).

If an individual requests that their name or other identifiable information not be shared with the accused, or that no action be taken against the accused, the Title IX Coordinator or Title IX Coordinator's designee will evaluate the request considering the following factors:

- The seriousness of the alleged misconduct;
- The respective ages and roles of the individual who has alleged the sexual misconduct and the accused;
- Whether there have been other sexual misconduct complaints about the same alleged respondent;
- Whether the alleged respondent has a history of arrests or records from a prior school indicating a history of sexual misconduct;
- Whether the alleged respondent threatened further sexual misconduct or other violence against the complainant or others;
- Whether the alleged misconduct was committed by multiple respondents;
- Whether the alleged misconduct was perpetrated with a weapon;
- Whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence); and
- Whether the complainant's report reveals a pattern of perpetration, e.g., via illicit use of drugs or alcohol, at a given location, or by a particular group;
- The extent of any threat to the University community.

The University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation made by the individual who has alleged the sexual misconduct, however, the scope of the response by the University may be impacted or limited based on the nature of the individual's request. The University may be unable to conduct an investigation into the particular incident or to pursue disciplinary action against the alleged respondent and also maintain confidentiality.

The University will strive to accommodate the individual's requests for confidentiality or non-action in most cases, to the extent possible consistent with the University's legal obligations. There may be times when, in order to provide a safe, non-discriminatory environment for all students and employees, the University may not be able to honor a complainant's request for confidentiality or non-action. The presence of one or more of the above factors could lead the University to investigate and, if appropriate, pursue disciplinary action (even without the participation of the individual who has alleged the sexual misconduct). If the Title IX Coordinator determines that the University cannot maintain a complainant's confidentiality or request for no action, the Title IX Coordinator will inform the complainant prior to starting an investigation. In such cases, the Title IX Coordinator may, at the individual's request, communicate to the accused that the individual asked the University not to investigate and that the University determined that it needed to do so. A complainant can choose not to participate in any investigation or complaint resolution process. In instances where the University moves forward with a complaint resolution process without the participation of the individual who has alleged the sexual misconduct, the individual who is alleged to have been subject to the

misconduct will have the same rights as provided to a complainant under this Policy, even if the individual is not named as a complainant.

CLERY REPORTING AND TIMELY WARNING

The University is obligated to provide the University community with general information regarding incidents of sexual violence and other crimes occurring on campus. However, publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. As required by state and federal law, the University includes statistics about certain offenses in its annual security reports and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. To ensure that a victim's personally identifying information will not be included in a publicly available recordkeeping, the Title IX Coordinator and/or Director of Campus Safety & Emergency Management describes the alleged incidents by removing the victim's and accused's names and any other identifiers that would enable the public to identify either party in the context of the incident report.

In addition, the Clery Act requires the University to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any identifying information about the individual who has alleged the sexual misconduct.

VII. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

The University will support any person adversely impacted by sexual misconduct. Both the University and the community provide a variety of resources to assist and support individuals who have experienced sexual misconduct or are affected by allegations of sexual misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the University or to law enforcement. Contact information for on- and off-campus resources (including confidential resources) that can provide an immediate response in a crisis situation, including assisting with obtaining needed resources and explaining reporting options, is listed in the Resources section at the end of this Policy and on the University's website. Emergency numbers and information about health care options are also listed in the Resources section at the end of this Policy and on the University's website.

Support services that may be available include, but are not limited to, connecting the individual with appropriate on-campus and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and/or working arrangements; assistance in filing a criminal complaint; and providing information about ongoing orders of protection and other available protections and services. Additional information about ongoing assistance is in the Protective and Interim Measures section below. To receive information about obtaining support services, individuals should contact the Title IX Coordinator or a confidential resource.

The University will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and

other services available for victims, both within the University and in the community. Those preferring off-campus counseling services will be assisted in locating such resources by University personnel.

A complete description of the University's and community's resources, both confidential and non-confidential, and additional information regarding what individuals can do if they experience sexual misconduct is provided in the Resources section at the end of this Policy and on the University's website. Individuals who believe they have been subjected to any form of sexual misconduct are encouraged to seek support from these resources.

VIII. REPORTING

Ouachita Baptist University encourages individuals who have experienced sexual misconduct to report the incident, so that they may receive the support they need and so the University may respond appropriately. Individuals have several options for reporting allegations of sexual misconduct. An incident of sexual misconduct may be reported to the University by contacting any one of the following:

- **Title IX Coordinator**

Ian Cosh

TitleIX@obu.edu, Elrod Center, 6th Street, 870 245 5320

Ouachita students, employees, and all other community members

- **OBU Campus Safety & Emergency Management**

870-245-4000

Evans Student Center

Mr. Jeff Crow, Director of Campus Safety and Emergency Management

Ouachita Campus; Student Development

870-245-5220

Evans Student Center

Mr. Rickey Rogers

Dean of Students

All Ouachita students

Human Resources

870 245 5585

Cone Bottoms

Mrs. Sherri Phelps

All Ouachita employees

- **University Website**

<https://omega.obu.edu/info/p3/SDHARM.php?HZTYPE=STUHAR>

Reports can be made by telephone, email, in person, and online on the University website. Reports to the University should include as much information as possible, including the names of the individual alleging they have experienced sexual misconduct and the accused, and the date, time, place, and circumstances of the incidents, to enable the University to respond appropriately.

When a student or employee reports to the University that they have been a victim of sexual assault, dating violence, domestic violence, or stalking, whether the offense occurred on or off campus, the

University will provide the student or employee with a written explanation of the student's or employee's rights and options, along with the procedures victims should follow.

Statistics relating to reports to the University of certain criminal offenses will be represented in the annual crime statistics published by the University as required by applicable law.

EMPLOYEE AND STUDENT EMPLOYEE REPORTING OBLIGATIONS

In order to enable the University to respond effectively and to prevent future instances of sexual misconduct, all University employees who are not confidential resources and who obtain or receive information regarding a possible violation of this Policy must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to the Title IX Coordinator. Such reports should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names of the accused (if known), the individual alleged to have experienced the sexual misconduct, other individuals involved in the incident, as well as relevant facts, including the date, time, and location of any incident.

Employees who receive such reports should not attempt to "investigate" the allegation or require the alleged victim/reporting individual to provide all of the details surrounding the alleged misconduct. To the extent the alleged victim/reporting individual provides details, that information should be provided to the Title IX Coordinator. Upon receiving a report of alleged or possible sexual misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken, consistent with the complaint resolution process and this Policy. Failure of a University employee to report sexual misconduct to the Title IX Coordinator may result in disciplinary action.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University's response to the report.

MANDATORY REPORTING OF CHILD ABUSE

Any University employee who has reasonable cause to suspect that a child has been subjected to child maltreatment, including abuse, sexual abuse, neglect, sexual exploitation, or abandonment, died as a result of child maltreatment, or died suddenly or unexpectedly or who observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, must report it immediately to Campus Safety and the Title IX Coordinator. In addition, as a mandatory reporter under Arkansas law, such individual must also report the maltreatment to the Child Abuse Hotline (1-800-482-5964); (1-800-843-6349) (TDD). School officials, including institutions of higher education, are mandatory reporters under Arkansas law. See Arkansas Code § 12-18-402.

REPORTS TO LAW ENFORCEMENT

Some types of sexual misconduct prohibited by this Policy are also crimes. Individuals who believe they may have been subjected to criminal sexual misconduct are strongly urged to promptly call the Office of Campus Safety, the Arkadelphia Police Department, or the Clark County Sheriff's Office. A crime may be reported by a victim, a perpetrator, a witness, or another interested party with knowledge of the crime. An individual who wishes to receive help reporting a crime may contact Campus Safety and Emergency

Management. Campus authorities will assist an individual in notifying law enforcement authorities. Individuals also have the option to decline to notify law enforcement authorities. If an individual reports to law enforcement, the individual may retain the option of pressing charges, immediately, at a later date, or not at all. An individual that reports to law enforcement may decline, at any time, to provide information or participate in the University's complaint resolution process. For more information, see the Non-Participation and Silence section of this Policy below. Individuals may file a criminal complaint and a Title IX complaint simultaneously. Reporting to law enforcement is not necessary for the University to proceed with an investigation and complaint resolution process. The filing of criminal or civil charges against the alleged offender will not preclude the University from proceeding with a sexual misconduct complaint process against the accused.

Individuals who would like to report sexual misconduct to law enforcement should contact the following:

- **Clark County 911 Service**
911 (for emergencies)
Provides emergency access to all Clark County and City of Arkadelphia emergency services
- **Arkadelphia Police Department**
870-246-4545
700 Clay Street
Chief Jasen Jackson
Law enforcement in the City of Arkadelphia; able to arrest
- **Clark County Sheriff's Office**
870-246-2222
406 South 5th Street
Sheriff Jason Watson
Law enforcement of Clark County which includes the City of Arkadelphia; able to arrest
- **OBU Campus Safety and Emergency Management**
870-245 4000
Evans Student Center Mr. Jeff Crow

ORDERS OF PROTECTION, CRIMINAL NO CONTACT ORDERS, UNIVERSITY NO CONTACT DIRECTIVES

Individuals who would like to avoid contact with another individual have several options available to them, including seeking an order of protection from a civil court or requesting a no contact order from the University.

Orders of protection and criminal no contact orders are legal orders issued by a state court which forbid someone from making contact with another.

An order of protection is issued by a state civil court to protect one family or household member from domestic abuse by another family or household member. Family and household members include those who are or have been in a dating relationship. The University does not issue orders of protection, but

one can be obtained through a petition to the circuit court in the county where the victim lives, where the alleged abuse occurred, or where the alleged abuser may be served. A petition for an order of protection can be found online at: <https://courts.arkansas.gov/system/files/Ex%20Parte%20Order%20of%20Protection%204-2018.pdf>. An interactive form as well as video instructions are available at: <https://www.arcourtsdvp.org/how-to-get-an-order-of-protection.html>. Petition forms are also available at the Clark County Circuit Court, 401 Clay Street, Arkadelphia, AR 71923. For more information and assistance, individuals should contact the Title IX Coordinator.

A criminal no contact order is issued by a state criminal court to a criminal defendant at or after arraignment on charges and prohibits the defendant from contacting directly or indirectly a person in any manner or from being within a certain distance of the person's home or place of employment. The court may issue a no contact order if it appears that there exists a danger that a defendant will commit a serious crime, seek to intimidate a witness, or otherwise unlawfully interfere with the orderly administration of justice.

A no contact directive is a University-issued directive that prohibits one or both parties from communication or contact with another. No contact directives may be mutual or one-sided. Generally, no contact directives issued pending the outcome of an investigation will be mutual and serve as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another. To request a no contact directive from the University, individuals should contact Ian Cosh, Title IX Coordinator, TitleIX@obu.edu, 870 245 5320, Elrod Center 6th Street.

The University is responsible for honoring requests for information about available options for orders of protection, criminal no contact orders, and no contact directives and has a responsibility to comply with and enforce such orders. To request additional information about available options for orders of protection, criminal no contact orders, and no contact directives, contact the Title IX Coordinator. An order of protection or criminal no contact order can be enforced by contacting local law enforcement. A University no contact directive may be enforced by contacting OBU Campus Safety or the Title IX Coordinator. The University will fully cooperate with any order of protection and/or no contact order issued by a criminal, civil, or tribal court.

AMNESTY FOR DRUG OR ALCOHOL VIOLATIONS

The University recognizes that sometimes an individual may be reluctant to report an instance of sexual misconduct or participate in a complaint resolution process out of concern that other conduct relating to the incident (*e.g.* use of alcohol or drugs) involves a violation of University policy. The University's overriding concern is for the safety of its students and employees, and the University strongly encourages all individuals to report any instance of sexual misconduct. Therefore, amnesty is provided to ensure that no sexual assault incident goes unreported from fear of sanctions for alcohol or drug use. An individual who, in good faith, reports a violation of this Policy, who responds to allegations of a violation of this Policy, or who participates as a witness in an investigation into allegations of a violation of this Policy, will not be disciplined by the University for their own personal possession or consumption of alcohol or drugs. The University may still require the individual to engage in educational or restorative action.

OBLIGATION TO ACT IN GOOD FAITH

Reports and complaints of alleged sexual misconduct should be made only in good faith. Complaints that are not made in good faith may be a form of retaliation under this Policy and/or may violate other University policies, including but not limited to, those contained in the Faculty-Staff Manual and Tiger Handbook.

RETALIATION

The University will not tolerate any form of retaliation, either on campus or off campus, against any individual who makes a good faith report or complaint of a potential violation of this Policy, supports another person's report or complaint, responds in good faith to a complaint, participates in good faith in the investigation of a complaint or the complaint resolution process, or opposes in good faith a practice or conduct that the person reasonably believes is a violation of this Policy. Engaging in retaliation or encouraging or assisting others to engage in retaliation violates this Policy. Employees or students who engaged in retaliatory behavior are subject to discipline, up to and including termination of employment or expulsion from the University. Retaliatory actions may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments intended to embarrass the individual; seeking to influence the participation or statements of parties or witnesses, or taking adverse action against them; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation may be present against a person even when the person's allegations of prohibited conduct are not substantiated.

Any individual who feels they are being retaliated against should immediately contact the Title IX Coordinator, TitleIX@obu.edu, Elrod Center 6th Street, 870 245 5320. ¶. The University will take appropriate action against any individual who retaliates against another person in violation of this Policy.

IX. GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS

When the University receives a complaint of an alleged violation of this Policy, the University will promptly respond to the complaint in accordance with the provisions and procedures set forth below. Each complaint resolution process will be conducted by individuals who do not have a conflict of interest or bias for or against the complainant or respondent and who receive annual training on issues related to sexual harassment, sexual assault, domestic violence, dating violence, stalking, and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability. The training is free of bias such as sex stereotypes or generalizations and includes the following topics: relevant evidence and how it should be used, proper techniques for questioning witnesses, basic rules for conducting proceedings, avoiding actual or perceived conflicts of interest, preventing sexual assault, responding to incidents of sexual assault, the dynamics of sexual assault, neurobiological responses to trauma, and compliance with state and federal laws on sexual assault.

The following principles are applicable to all complaint resolution processes. In instances where the University moves forward with a complaint resolution process without the participation of the individual who has alleged the sexual misconduct, the individual who is alleged to have been subject to the misconduct will have the same rights as provided to a complainant under this Policy even if the individual is not named as a complainant.

EQUAL RIGHTS OF THE COMPLAINANT AND RESPONDENT

The complainant and respondent are entitled to:

- Be treated with respect, sensitivity, and dignity;
- Appropriate support from the University;
- Privacy to the extent possible based on applicable law and University policy;
- Information regarding all applicable policies and procedures;
- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt, fair, and impartial investigation and resolution conducted by officials who receive annual training on conduct prohibited by this Policy;
- Notice of the allegations and defenses and an opportunity to respond;
- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal process;
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent;
- The right to be free from retaliation;
- The right to appeal the decision and/or sanctions in certain circumstances, as discussed in the Appeals section below;
- The right to notification, in writing, of the resolution, including the outcome of any appeal;
- For the complainant, the right to report the incident to law enforcement at any time or to decline to do so.

ADDITIONAL RIGHTS IN CASES INVOLVING ALLEGATIONS OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the following rights will be afforded to the complainant and the respondent in addition to those rights described above:

- The complainant and respondent will be provided timely notice of meetings at which the complainant or respondent may be present.
- The complainant and respondent will be provided timely and equal access to any information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process.
- The complainant and respondent have the right to have an advisor present during the complaint resolution process. The University will not limit the choice of advisor or presence of the advisor for the complainant or respondent in any meetings or disciplinary process. See the Advisors section below for additional information and requirements regarding the conduct of advisors.

RIGHT TO AN ADVISOR

The complainant and the respondent in a complaint resolution process (both the informal and formal resolution processes) involving allegations of sexual assault, dating violence, domestic violence, and stalking have the right to be assisted by an advisor of their choice, including an attorney. Generally, the advisor selected by the complainant or respondent should be free of

conflicts of interest in the resolution process and, if a member of the University community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the University's complaint resolution process.

Guidelines for advisors are:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to in-person interviews or other meetings during the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend in-person interviews and meetings. As a general matter, the University will not unnecessarily delay its proceedings to accommodate the schedules of advisors.
- Advisors may confer with their advisee, but they may not actively participate in the complaint resolution process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution process. The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to the University. The advisor may not communicate directly with the investigator(s), adjudicators, appeal officer(s), Title IX Coordinator, or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.
- Advisors may have access to information concerning a case only when accompanying the party (for in-person access to information) or only when the party has given permission for the advisor to be copied on emails or other correspondence (for access to written communications). An advisor's access to such information is subject to the same limitations as those placed upon the parties and conditioned upon the advisor's agreement to maintain the confidentiality of any student education records or other confidential information.
- If a party selects an attorney as an advisor, the advisor's participation in the complaint resolution process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint resolution process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
- Parties must notify the Title IX Coordinator who they have selected as their advisor. The University will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor. The notice shall indicate if the other party's advisor is an attorney.
- Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The University reserves the right to dismiss an advisor.

REQUESTS FOR REASONABLE ACCOMMODATIONS

Individuals who need a reasonable accommodation should contact the Title IX Coordinator. The University will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. Accommodations the University may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the complaint resolution process.

- Providing an interpreter for individuals who are limited English-language proficient.

INTERIM ACCOMMODATIONS AND PROTECTIVE MEASURES

At any time after a report of a potential violation of this Policy has been received by the University, the Title IX Coordinator or the Title IX Coordinator's designee(s) will consider whether interim actions, accommodations, or protective measures are reasonably necessary or appropriate to protect the parties and the broader University community, pending completion of the complaint resolution process. When appropriate, such interim actions, accommodations, and protective measures may be available to the complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available.

The University will provide written notification to an individual who believes they have experienced sexual misconduct about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The University is obligated to comply with a student's reasonable request for a living and/or academic situation change following an alleged incident of sexual misconduct. The University will make accommodations and provide protective measures for an individual who believes they have experienced sexual misconduct, if requested and if reasonably available. The University will make such accommodations and provide such protective measures, even when an individual asks to keep a reported violation of this Policy confidential or requests that the University not investigate the matter, and regardless of whether an individual chooses to report to law enforcement.

Examples of interim actions, accommodations, and protective measures include, without limitation:

- Establishing a "no contact" directive prohibiting the parties involved from communicating with each other during the complaint and resolution process;
- Changing an individual's on campus residency, dining, or transportation arrangements.
- Special parking arrangements;
- Assistance in finding alternative housing, including reassignment to a different residence hall or room;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule, including transferring to a different section of a course;
- Providing academic accommodations or providing assistance with academic issues, including permission to withdraw from a course without penalty;
- Providing security escorts;
- Providing a temporary cellphone;
- Access to counseling and medical services;
- Making information about orders of protection and criminal no contact orders available to a complainant;
- Assistance in identifying an advocate to help secure additional resources or assistance, including off campus and community advocacy, support, and services.

The University determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including, but not limited to, the specific need expressed by the individual, the age of the student(s) involved, the severity or pervasiveness of the allegations, any continuing effects on the individual, whether the

complainant and respondent share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the individual. The Title IX Coordinator will be responsible for determining what measures will be put in place.

To request an accommodation or interim measures, individuals should contact the Title IX Coordinator.

The University will maintain as confidential any accommodations or protective measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures. The University will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The University will inform the individual before sharing personally identifying information that the University believes is necessary to provide an accommodation or protective measure. The University will tell the individual which information will be shared, with whom it will be shared, and why it will be shared.

Additional services are available on campus and/or in the community, as described in the Resources section at the end of this Policy.

Any concern about a violation of an interim measure should be reported to the Title IX Coordinator promptly.

NON-PARTICIPATION AND SILENCE

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If, at any time during the complaint resolution process, a party decides not to participate, the University may still proceed with the complaint resolution process. If at any time the complainant declines to participate in the process, the University's ability to meaningfully investigate and resolve a complaint may be limited. In such cases, the University will proceed with the complaint resolution process, if possible to do so without the complainant's participation, and will make a determination based upon the information available. The respondent also has the right to decline to participate in the complaint resolution process. In such cases, the University will proceed with the complaint resolution process and will make a determination based upon the information available. A respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed. Similarly, a complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the respondent's denials or defenses undisputed. Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during additional phases of the process.

OBLIGATION TO BE TRUTHFUL

All parties and witnesses have an obligation to be truthful in this process. Engaging in dishonesty may be a form of retaliation under this Policy and/or violate other University policies, including but not limited to those contained in the Faculty-Staff Manual and Tiger Handbook.

CONFLICTS OF INTEREST

If a complainant or respondent has any concern that any individual acting for the University under this Policy has a conflict of interest or bias, such concern should be reported in writing to the Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the person's involvement in the process. The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the concerns and take appropriate steps to ensure that no conflicts of interest or bias exist on the part of anyone investigating or resolving a complaint under this Policy.

Any concern of a conflict of interest or bias regarding the Title IX Coordinator must be submitted in writing to Bryan McKinney, General Counsel. If the Title IX Coordinator has a conflict of interest with respect to a complaint, Bryan McKinney, General Counsel shall appoint another person to oversee adherence to the Sexual Misconduct Policy with respect to the complaint at issue.

The parties should be mindful that Ouachita is a small and close-knit campus community. That a party simply knows an individual acting for the University under this Policy or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the University encourages the parties to bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

TIME FRAMES FOR RESOLUTION

The University is committed to the prompt and equitable resolution of allegations of sexual misconduct. The University will strive to conclude the response and resolution process within ninety (90) calendar days of receiving a complaint alleging a policy violation. Specific time frames for each phase of the complaint resolution process are set forth in the Procedures for Sexual Misconduct Complaint Resolution section below. Each phase of the process will generally be as follows:

- Review of report or complaint and Notice of complaint to the respondent: ten (10) calendar days
- Investigation: forty-five (45) calendar days
- Response and rebuttal: ten (10) calendar days
- Adjudication: twenty-five (25) calendar days

Circumstances may arise that require the extension of time frames based on the complexity of the allegations, the number of witnesses involved, the availability of the parties involved, witnesses being absent from campus, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, vacation, or other unforeseen circumstances.

In cases where an alleged incident has also been reported to law enforcement, the University will not delay its investigation and resolution procedures in order to wait for the conclusion of a criminal investigation or proceeding. The University will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, the University may need to delay

temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. This process typically takes seven (7) to ten (10) days. Once law enforcement has completed its gathering of evidence, the University will promptly resume and complete its investigation and resolution procedures.

In the event that the complaint resolution process exceeds the 90-day timeframe, or to the extent additional time is needed during any of the phases of the process discussed above and further below, the University will notify all parties of the reason for the delay and the expected adjustment in time frames. When a time frame for a specific phase of the process, as set forth below, is less than five (5) calendar days, the University may, in its discretion, use business days to calculate the time frame deadline. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

Complainants are encouraged to begin the complaint resolution process as soon as possible following an alleged incident. There is no statute of limitation for reporting prohibited conduct to the University under this Policy; however, the University's ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the University. If a complaint is brought forward more than four (4) calendar years after an alleged incident, the University, in its discretion, may decline to process a complaint under these procedures, but reserves the right to take other administrative action as appropriate depending on the specific circumstances of the complaint, and will provide reasonably appropriate remedial measures, assist the complainant in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. If at least one party involved in the complaint is still a member of the University community as a student or employee, the complaint generally will be processed under these procedures.

APPLICATION OF THE POLICY

When the University receives a report or complaint of a violation of this policy, the University will generally apply the complaint resolution procedures from the policy that is in effect at the time that the report or complaint is made and generally will apply the sexual misconduct definitions from the policy that was in effect at the time the alleged misconduct occurred.

RESERVATION OF FLEXIBILITY

The procedures set forth in this policy reflect the University's desire to respond to complaints in good faith and in a manner that promotes fairness to all parties. The University recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. Where it is not possible or practical to follow these procedures, the University reserves the right to modify the procedures or to take other administrative action as appropriate under the circumstances.

In instances where a complaint is made against an individual who is not a student or employee of the University, the University reserves discretion to use a process or procedures other than those outlined below, as appropriate under the circumstances.

X. PROCEDURES FOR SEXUAL MISCONDUCT COMPLAINT RESOLUTION

The University will use the protocol outlined below to investigate and resolve, in a prompt, fair, and impartial process, complaints of sexual misconduct brought to the Title IX Coordinator.

SEXUAL MISCONDUCT COMPLAINT

The filing of a complaint typically begins the complaint resolution process under this Policy. In most cases, complaints are made by the complainant. However, in some cases, the University may move forward with a complaint resolution process even if the alleged victim chooses not to make or move forward with a complaint. Generally, the Title IX Coordinator will make a determination of whether the University will move forward with a complaint resolution process even when the alleged victim has not filed a complaint. If the University decides that it has an obligation to move forward with a complaint resolution process, it will notify the alleged victim before proceeding. See Requests for Confidentiality or Non-Action above for more information.

Complaints of sexual misconduct should be made through the Title IX Coordinator.

- Ian Cosh
TitleIX@obu.edu
Elrod Center 6th Street, 870 245 5320

INITIAL REVIEW AND ASSESSMENT BY TITLE IX COORDINATOR AND NOTICE TO THE RESPONDENT

In most cases, the first step of the complaint resolution process is a preliminary meeting between the complainant and the Title IX Coordinator or the Title IX Coordinator's designee(s). The purpose of the preliminary meeting is to allow the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the report or complaint; it is not intended to be an investigation interview.

As part of the initial meeting with the complainant, the Title IX Coordinator or the Title IX Coordinator's designee(s) will:

- Address the nature and circumstances of the allegation;
- Address immediate needs of the complainant and the campus, in consultation with appropriate campus officials;
- Notify the complainant of the right to contact law enforcement and seek medical treatment;
- Notify the complainant of the importance of preservation of evidence;
- Provide the complainant with information about on- and off-campus resources;
- Notify the complainant of available interim accommodations and protective measures;
- Provide the complainant with an explanation of the procedural options, including how to file a complaint and the complaint resolution process;
- In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, advise the complainant of the right to have an advisor of choice;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to process; and
- Explain the University's policy prohibiting retaliation.

All reports and complaints of sexual misconduct will be reviewed by the Title IX Coordinator and/or the Title IX Coordinator's designee(s) to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks when necessary in consultation with the members of Campus Safety and Emergency Management and Student Development. The Title IX Coordinator and/or the Title IX Coordinator's designee(s) will also assess the reported conduct for the need for a timely warning under the Clery Act; and assess for pattern evidence or other similar conduct by respondent.

The Title IX Coordinator or the Title IX Coordinator's designee(s) has discretion to refer the matter to other University disciplinary procedures. This referral option will generally be used when the alleged behavior does not fall within the policy or the alleged behavior applies to another disciplinary procedure. If the Title IX Coordinator or designee(s) determines that the report or complaint, even if substantiated, would not be a violation of this Policy, they may dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the complainant.

When the Title IX Coordinator has received a complaint of sexual misconduct, the Title IX Coordinator or the Title IX Coordinator's designee(s) will meet with the respondent and will:

- Notify the respondent of the complaint and alleged policy violations;
- Provide the respondent an explanation of the complaint process;
- Notify the respondent of the importance of preservation of evidence;
- Provide the respondent with information about on- and off-campus resources;
- Notify the respondent of any interim accommodations and protective measures that have been put in place that directly relate to the respondent (i.e., no contact directive);
- Notify the respondent of any available interim accommodations and protective measures;
- In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, advise the respondent of the right to have an advisor of choice; and
- Explain the University's policy prohibiting retaliation.

This stage of initial review of the report or complaint by the Title IX Coordinator and initial notice of complaint to the respondent generally will take no more than ten (10) calendar days.

INVESTIGATION OF OTHER UNIVERSITY POLICY VIOLATIONS

If a complaint of sexual misconduct also implicates alleged violations of other University policies, the Title IX Coordinator or the Title IX Coordinator's designee(s), in coordination with other appropriate school officials, will evaluate the allegations to determine whether the investigation of the alleged sexual misconduct and the other alleged policy violations may be appropriately investigated together without unduly delaying the resolution of the sexual misconduct complaint. Where the Title IX Coordinator or the Title IX Coordinator's designee(s), in coordination with other appropriate school officials, determines that a single investigation is appropriate, the determination of responsibility for each of the alleged policy violation will be evaluated under the applicable policy, but the investigation and adjudication will be conducted in accordance with this Policy.

INFORMAL RESOLUTION PROCESS

When a complaint is filed, the complainant has the option to pursue an informal resolution in some circumstances. In cases involving allegations of sexual assault or more serious sexual misconduct, informal resolution may not be appropriate.

If the complainant, the respondent, and the University all agree to pursue an informal resolution, the Title IX Coordinator or the Title IX Coordinator's designee will attempt to facilitate a resolution that is agreeable to all parties. The Title IX Coordinator or the Title IX Coordinator's designee will not be an advocate for either the complainant or the respondent in the informal resolution process, but rather will aid in the resolution of problems in a non-adversarial manner. Under the informal process, the University will only conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the University, and the University community.

The University will not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process at any time and request a formal resolution process. In addition, the University also always has the discretion to discontinue the informal process and move forward with a formal resolution process. If at any point during the informal resolution process, the complainant or respondent or the University wishes to cease the informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will be invoked.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the University to stop, remedy, and prevent policy violations. In its effort to stop, remedy, and prevent policy violations, the University will take prompt and corrective action through the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the University. Examples of potential remedies are provided in the Interim Accommodations and Protective Measures section of the policy. The recommended resolution may also include other institutional responses or requirements imposed on the respondent.

The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the University terminates the process. A successful informal resolution results in a binding agreement between the parties. If the parties to the complaint agree in writing to the terms and conditions of a recommended resolution within five (5) calendar days of the Title IX Coordinator or the Title IX Coordinator's designee presenting the recommended resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the complaint do not agree in writing to the terms and conditions of the recommended resolution within five (5) calendar days of the Title IX Coordinator or the Title IX Coordinator's designee presenting the recommended resolution to the parties, the complaint will be referred to the formal resolution process. If the complaint is referred to the formal resolution process, the time spent attempting to reach an informal resolution generally will not be counted as part of the ninety (90)-day time frame discussed in the Time Frames for Resolution section above.

FORMAL RESOLUTION PROCESS

If the complaint is not processed or resolved through the voluntary informal resolution process discussed above, the complaint will be processed according to the formal resolution process outlined below.

INVESTIGATION

The Title IX Coordinator or the Title IX Coordinator's designee(s) will designate one or more investigators to conduct a prompt, thorough, fair, and impartial investigation. The University reserves the right to appoint any trained investigator. The parties will receive written notice of the investigator(s) appointed. If any party has a concern that the investigator(s) has/have a conflict of interest, the party should report the concern in writing as indicated in the Conflicts of Interest section above.

The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include interviews with the complainant, the respondent, and witnesses; in most instances, these interviews will be audio-recorded. The complainant and respondent will have the opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, and other evidence they believe should be reviewed by the investigator(s). The investigator(s) has/have discretion to assess the relevancy of any proposed witnesses and determine which interviews to conduct, including the discretion to conduct interviews of individuals not identified by the parties. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. General character or reputation evidence generally will not be considered relevant and will not be included in the investigation. The investigator(s) may choose not to interview character witnesses and/or not to include information from character witnesses in the investigation report. The complainant and respondent will be given equitable opportunities to present information, including evidence and witnesses they believe should be interviewed, as part of the investigation.

The parties will be informed of a close of evidence date. The parties must submit any and all information and evidence believed to be relevant to the complaint by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator(s) determine(s) otherwise

At the conclusion of the investigation, the investigator(s) generally will prepare a report setting forth the facts gathered. The investigator(s) generally will compile an investigation file, which may consist of any information, documents, recordings, or other evidence that are provided to the adjudicators. At the investigator's discretion, such information may include, as applicable: the written complaint, recordings or written records of interviews with the complainant, respondent, and any witnesses, any other evidence obtained during the investigation, and the investigator's report of the investigation. The investigation file will be forwarded to the Title IX Coordinator. The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the investigation file and has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation file.

The University will strive to complete the investigation within forty-five (45) calendar days from the date of the complaint, but this time frame may be extended depending on the circumstances of each case, including the complexity of the allegations, the number of witnesses involved, the availability

of the parties or witnesses involved, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, vacation, or other unforeseen circumstance.

REVIEW OF INVESTIGATION FILE IN CASES INVOLVING SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

For complaints involving allegations of sexual assault, dating violence, domestic violence, or stalking, the investigation file will be made available for review by the complainant and respondent. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a seven (7) calendar day period (the "review and response period") for the complainant and respondent to have access to review the investigation file and prepare a response to the investigation file, as discussed below. The parties' access to the investigation file generally will be provided during normal business hours in a designated on campus location. The investigation file cannot be removed from that location, nor can duplications be made or pictures taken of the file contents.

Both parties will have the opportunity to provide a written response to the investigation file. To do so, the party must submit an initial written statement, which may not exceed 2,000 words in length, to the Title IX Coordinator. The initial written statement must be submitted by the conclusion of the review and response period described above. The initial written statement may be used as an opportunity to clarify points in the investigation report or identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included. While the parties may be assisted by their advisors in preparation of the initial written statement, the initial written statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.

The parties will have an opportunity to review the initial written statement submitted by the other party and, if desired, may submit a rebuttal written statement not to exceed 1,500 words. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a three (3) calendar day period for the complainant and respondent to have access to review the other party's initial written statement and submit a rebuttal written statement. The parties' access to the initial written statement generally will be provided during normal business hours in a designated on campus location. The initial written statement cannot be removed from that location, nor can duplications be made or pictures taken of the contents. The rebuttal written statement may only be used to respond to arguments made in the other party's initial written statement. While the parties may be assisted by their advisors in preparation of the rebuttal written statement, the rebuttal written statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.

The parties will have an opportunity to review the rebuttal written statement submitted by the other party. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a three (3) calendar day period for the complainant and respondent to have access to review the other party's rebuttal written statement. The parties' access to the rebuttal written statement generally will be provided during normal business hours in a designated on campus location. The rebuttal written statement cannot be removed from that location, nor can duplications be made or pictures taken of the contents.

The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the initial written statements and rebuttal written statements. Based on the statements, the Title IX Coordinator or the Title IX Coordinator's designee(s) has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation file. In addition, the Title IX Coordinator or the Title IX Coordinator's designee(s) may remove or redact any portions of the parties' written statements that exceed the permitted scope or word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as general character evidence or evidence relating to the complainant's prior sexual history).

ADJUDICATION

Upon completion of the investigation, the Title IX Coordinator or the Title IX Coordinator's designee(s) will designate appropriate adjudicators to complete a prompt, thorough, fair, and impartial adjudication. Typically, a panel of two adjudicators will be appointed to each case. However, the University reserves the right to appoint additional adjudicators to assist in making a determination in any given case. In addition, in any complaint resolution process, the assigned adjudicators may request to have a third adjudicator appointed to the case at any point during the adjudication prior to the issuance of the written notice of determination. Generally, the adjudicators shall be chosen from a pool of qualified faculty and staff members who are listed annually on the Title IX Leadership Committee. If any party has a concern that the adjudicators have a conflict of interest, the party should report the concern in writing as indicated in the Conflicts of Interest section above.

Adjudicators will review the investigation file and any initial written statements and rebuttal written statements provided by the complainant and respondent after the parties' review of the investigation file, as applicable. The adjudicators may, in their discretion, seek additional information from the investigator(s), the parties, or another individual, or request additional investigation by the investigator(s). If the adjudicators seek and are provided additional information, the parties will be notified and provided access to that additional information.

The presumption is that the respondent is not responsible for a policy violation. The respondent will be deemed responsible for a policy violation only if the adjudicators conclude that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent engaged in sexual misconduct. If the adjudicators determine that the respondent is responsible for a policy violation, they will then determine what sanctions and remedies are warranted.

As part of that determination of sanctions/remedies, the adjudicators may, in their discretion, request information from the Title IX Coordinator regarding any previous violations of this Policy by the respondent. If such information is shared with the adjudicators, the parties will be notified.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks that do not rise to the level of hostile environment sexual harassment—the University may, in its discretion, require the respondent to receive appropriate education and/or training. The University may also recommend counseling or other support services for the respondent.

SANCTIONS AND REMEDIES

Adjudicators will impose sanctions and/or remedies as necessary to end the misconduct, prevent its recurrence, and address its effects. The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect the rights and personal safety of students, faculty, staff, and other University community members. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions depending on the severity of the offense. Individuals who are found responsible under this Policy may face the following sanctions as appropriate for students, employees, visitors, or others. Each of these sanctions may be imposed alone or in combination for a respondent found responsible for sexual misconduct, including for violations of the sexual assault, dating violence, domestic violence, or stalking provisions of this Policy:

- Required assessment, education, or training;
- Behavioral contracts;
- Campus or community assignment;
- Campus housing suspension, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- Change in living assignment;
- Conditions upon presence on campus or at University events;
- Confiscation;
- Demotion;
- Disciplinary probation;
 - Residence hall probation;
 - Personal probation;
 - Social club probation;
 - University probation;
- Drug and/or alcohol testing;
- Eviction;
- Expulsion from the University;
- Fines/charges;
- Formal censure;
- Loss of salary or benefit such as sabbatical or research or travel funding;
- Loss of privileges;
- No trespass or no-contact orders;
- Reassignment or removal from an elected or appointed position;
- Redemptive education;
- Removal or non-renewal of scholarships or honors;
- Reprimand;
- Restitution;
- Revocation of admission to the University;
- Revocation of tenure;
- Suspension of financial aid, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- Suspension from the University, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;

- Suspension of promotion and salary increases, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- Suspension or withdrawal of faculty privileges, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- Temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
- Termination of employment;
- Transfer or change of job or responsibilities;
- Warning;
- Withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions.

When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, or staff/faculty committee) has committed or promoted behavior involving sexual misconduct, the organization may be sanctioned. Sanctions to the organization may include, but are not limited to, loss of University privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of University facilities), educational requirements for organization members, required additional oversight of organization activities, temporary loss of funding and/or loss of recognition by the University, and permanent loss of organization recognition, in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

Remedies, accommodations, and protective measures for the complainant include implementing or extending all or some of the following actions, without limitation:

- A mutual or one-sided no-contact order;
- Prohibiting an individual involved from being on University property;
- Prohibiting an individual involved from participating in University-sponsored events;
- Changing an individual's on-campus residency, dining, or transportation arrangements, or prohibiting an individual from residing in a University residence;
- Special parking arrangements;
- Assistance in finding alternative housing, including reassignment to a different residence hall or room;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule, including transferring to a different section of a course;
- Providing academic accommodations or providing assistance with academic issues, including permission to withdraw from a course without penalty;
- Providing security escorts;
- Providing a temporary cell phone;

- Access to counseling and medical services;
- Making information about orders of protection and criminal no-contact orders available to a complainant; and/or
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

Remedies designed to address the University community include increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred or is likely to reoccur and targeted or broad based educational programming or training for relevant persons or groups.

Any concern about a violation of an imposed sanction should be reported to the Title IX Coordinator.

NOTICE OF DETERMINATION

The complainant and respondent will receive a written notice of the outcome of the complaint. The notifications will be provided to the complainant and the respondent at the same time.

For complaints involving sexual assault, dating violence, domestic violence, or stalking, the written notice shall include the determination of the adjudicators, any imposition of sanctions, and the rationales for the determination and sanctions including how the evidence was weighed, how the information supports the result, and the standard of evidence applied. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the University has taken to eliminate the conduct and prevent its recurrence. The complainant's written notice will also include remedies offered or provided to the complainant.

For all other complaints of sexual misconduct, the written notice shall include the determination of the adjudicators. The respondent's written notice shall include any imposition of sanctions and the complainant's written notice shall include any imposition of sanctions that directly relate to the complainant. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the University has taken to eliminate the conduct and prevent its recurrence. The complainant's written notice will also include remedies offered or provided to the complainant.

The University will strive to complete the adjudication process and provide a notice of determination within twenty-five (25) calendar days after the adjudicators' receipt of the investigation file and any initial written statements and rebuttal written statements of the parties from the Title IX Coordinator. In some cases, more time may be required.

The determination of the adjudicators may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final.

XI. APPEALS

The parties may appeal the adjudicators' decision.

Grounds for appeals are as follows:

- Presentation of newly-discovered evidence that was not previously available to submit during the complaint resolution process that may substantially affect the outcome of the process, however, intentional omission of factual information by the appealing party is not a ground for appeal;
- A procedural error occurred that substantially affected the outcome of the process;
- The decision was arbitrary or capricious or violated academic freedom;

SUBMITTING AN APPEAL

A party may request an appeal by submitting a written appeal statement, not to exceed 2,000 words, which must explain which of the grounds above the party is invoking for the appeal, and must be received by the Title IX Coordinator within seven (7) calendar days following the date that the notice of determination was sent to the complainant and respondent. While the parties may be assisted by their advisors in preparation of the appeal, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Title IX Coordinator or the Title IX Coordinator's designee(s) may remove or redact any portions of the appeal statement that exceed the permitted scope of the appeal or word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as general character/reputation evidence and evidence relating to the complainant's prior sexual history).

If the Title IX Coordinator or Title IX Coordinator's designee(s) determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response to the appeal. The non-appealing party may, if desired, submit a written response to the appeal, not to exceed 2,000 words, to the Title IX Coordinator within seven (7) calendar days of receiving notice of the appeal. The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the responsive appeal statement and may remove or redact any portions of the statement that exceed the permitted scope of the appeal or word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as general character/reputation evidence and evidence relating to the complainant's prior sexual history).

The Title IX Coordinator or the Title IX Coordinator's designee(s) generally will compile an appeal file, which may consist of any information, documents, recordings, or other evidence that is provided to the appeal officer. Such information may include, as applicable, the written appeal statement, the responsive appeal statement, the notice of determination, the investigation file, the parties' initial written statements and rebuttal written statements, and any previously undiscovered evidence (if discovery of new evidence is a ground for appeal).

For complaints involving allegations of sexual assault, dating violence, domestic violence, or stalking, the appeal file will be made available for review by the complainant and respondent. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a five (5) calendar day period for the complainant and respondent to have access to review the appeal file and such access generally

will be provided during normal business hours in a designated on-campus location. The appeal file cannot be removed from that location, nor can copies be made or pictures taken of the contents.

The parties shall receive written notice of the appeal officer(s) appointed. Generally, the appeal officer will be a senior member of the faculty or Administrative Council. However, the University reserves the right to appoint any trained appeal officer. If any party has a concern that the appeal officer has a conflict of interest, the party should report the concern in writing as indicated in the Conflicts of Interest section above.

CONSIDERATION OF APPEAL

In an appeal the burden of proof is on the appealing party to show that it is more likely than not that one or more of the above grounds for appeal are satisfied.

The appeal officer will not rehear the case, but will review the appeal file and consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied and impacted the outcome of the process. If the appeal officer determines that the appealing party has demonstrated that it is more likely than not that one of the above grounds for appeal is satisfied, generally, the matter will be remanded for further investigation and/or deliberations by adjudicators, as determined by the appeal officer. If the appeal officer grants an appeal finding the imposed sanction to be excessively severe or grossly inadequate, the appeal officer has the discretion to modify the sanctions determination or to remand the matter to adjudicators for a new sanctions determination. If the appeal officer modifies the sanctions determination, the appeal officer's sanctions decision will be subject to an appeal.

When the matter is remanded, the appeal officer will determine whether the matter should be remanded to the adjudicators or whether new adjudicators should review the matter. The appeal officer may not change the adjudicators' determination of whether the respondent was responsible or not responsible for a Policy violation. Only the adjudicators reviewing the matter on remand from an appeal may change the determination of the original adjudicators of whether the respondent was responsible or not responsible for a Policy violation. If the reasons for remand relate to the investigation or warrant additional investigation, the appeal officer will determine whether the matter should be remanded to the previous investigator(s) or whether a new investigator(s) should be appointed.

If the appeal officer determines that the appealing party has not demonstrated that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal officer will dismiss the appeal. This decision is final and is not appealable.

The appeal officer will issue a written decision stating the appeal officer's findings and the final disposition of the appeal. The University will strive to complete the appeal within thirty (30) calendar days following the appeal officer's receipt of the appeal file from the Title IX Coordinator; however, in some cases, more time may be required.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty, staff or student grievance policies or processes.

Sanctions generally will take effect immediately, notwithstanding an appeal. A request may be made to the Title IX Coordinator to defer the effective date of sanctions in exigent circumstances. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the individual to his or her prior status.

XII. RECORDKEEPING RELATING TO SEXUAL MISCONDUCT

The Title IX Coordinator or Title IX Coordinator designee is responsible for maintaining the official University records of sexual misconduct reports and complaints. When a complaint is pending, each official having a role in the response and resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the complaint or report will be provided to the Title IX Coordinator, who will maintain such records in accordance with the University's record retention requirements and applicable law. Records related to sexual misconduct reports and complaints will be treated as confidential and shared only on a need-to-know basis or as required by law.

XIII. COMPLAINTS OF RETALIATION, VIOLATION OF INTERIM MEASURES, AND VIOLATION OF SANCTIONS

Any complaint relating to retaliation in violation of this policy, violations of interim measures, or violations of sanctions should be reported promptly to the Title IX Coordinator. The University will take appropriate action against any individual who retaliates against another person in violation of this policy or who violates interim measures or sanctions.

When the University receives a complaint of retaliation or of violations of interim measures or sanctions, the Title IX Coordinator may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. At the Title IX Coordinator or the Title IX Coordinator's designee(s)' discretion, options for resolution include, but are not limited to, informal discussions and resolution facilitated by the Title IX Coordinator or the Title IX Coordinator's designee(s), investigation and determination by the Title IX Coordinator, or assignment of a designated individual to investigate the complaint and determine an appropriate response. This process will be separate and distinct from the Sexual Misconduct Complaint Investigation and Resolution Procedures outlined above for addressing sexual misconduct complaints. The Title IX Coordinator or the Title IX Coordinator's designee(s) will document the complaint received, the process used, and the outcome. The University will notify the parties of the outcome of the complaint. In instances where the outcome of the process results in a suspension longer than one year, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights set forth in this Policy. Any party with concerns about the process or outcome should consult with the Title IX Coordinator.

XIV. ALTERNATIVE PROCEDURES

Nothing in this Policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR). The person filing the complaint need not be a complainant of the alleged sexual misconduct, but may complain on behalf of another

person. More information can be found about filing a complaint at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>

The OCR office for institutions located in Arkansas is:

- Dallas Office
Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201-6810

Tel: 214-661-9600

TDD: 800-877-8339

Email: OCR.Dallas@ed.gov

XV. RESOURCES

IMMEDIATE ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL ASSAULT

- Go to a safe place;
- Call 911 if in immediate danger, if you are injured, or the community is in possible danger;
- Consider securing immediate professional support on or off campus to assist you in the crisis;
- Seek appropriate medical care as soon as possible for injuries, preventive treatment for sexually transmitted diseases, and possible evidence collection. Individuals should go to the nearest medical emergency room immediately following the incident and before bathing or changing clothes, so that injuries can be attended and potential evidence gathered. Information on available medical centers is below in the Healthcare Options section. Treatment can be sought before reporting and regardless of whether you choose to report or not. Being examined as soon as possible, ideally within 24 hours, is important in the case of sexual assault. The hospital will arrange for a specific medical examination at no charge. Even if you do not want to report the incident to the police, or some time has passed since the assault, you may still need and benefit from medical attention.
- Preserve any evidence, which may be necessary to the proof of criminal sexual violence or in obtaining an order of protection. It is very important to preserve evidence. You may not know right now whether you will contact the police. But in case you later decide to, the evidence available immediately after the assault is crucial. To preserve evidence, follow these recommendations: Prior to seeking medical attention, do not shower, bathe, wash your hands, brush your teeth, use the toilet or clean up in any way. Bring another set of clothes to the hospital since clothes will be collected as part of the evidence. If you have changed clothes, bring your soiled clothing with you for evidence collection. Additionally, you are encouraged to gather bedding, linens or any other pertinent articles that may be used for evidence. Secure them in a clean paper bag or clean sheet. Evidence found in phone records (texting), e-mails, and/or social media (Facebook, Snapchat, etc.) should also be preserved.
- Even after the immediate crisis has passed, contact confidential on campus and/or off campus resources—for emotional support, information, and/or advocacy.
- Report the conduct to the Title IX Coordinator. The Title IX Coordinator can arrange for interim measures and accommodations, including no contact orders. The Title IX Coordinator

can provide information to students who wish to obtain orders of protection with local authorities.

- File criminal charges with the local Police Department, if desired. The University will help the employee or student in reporting the assault to the police and/or in filing a criminal charge.
- The University will assist the employee or student, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with the incident, and in preserving any materials relevant to a University disciplinary proceeding, regardless of whether the employee or student files a formal complaint with the University.

EMERGENCY CONTACTS

24-Hour Emergency – Local law enforcement: 911

24-Hour Emergency – Campus Safety: 870-245-4000

PLACES TO REPORT SEXUAL MISCONDUCT

On-Campus Reporting:

- Title IX Coordinator
Ian Cosh
TitleIX@obu.edu, Elrod Center 6th Street, 870 245 5320 . [
coshi@obu.edu
Onachita students, staff, and employees
- OBU Campus Safety & Emergency Management
870-245-4000
Evans Student Center
Mr. Jeff Crow, Director
Onachita Campus; Student Development
870-245-5220
Evans Student Center
Mr. Rickey Rogers
Dean of Students
All Onachita students
- University Website
<https://omega.obu.edu/info/p3/SDHARM.php?HZTYPE=STUHAR>

Off-Campus Reporting:

- Clark County 911 Service
911 (for emergencies)
*Provides emergency access to all
Clark County and City of Arkadelphia emergency services*
- Arkadelphia Police Department
870-246-4545

700 Clay Street
Chief Jason Jackson
Law enforcement in the City of Arkadelphia; able to arrest

- Clark County Sheriff's Office 870-246-2222
406 South 5th Street
Sheriff Jason Watson
Law enforcement of Clark County which includes the City of Arkadelphia; able to arrest

CONFIDENTIAL RESOURCES

On-Campus Confidential Resources:

- Counseling Services
870-245-5220
Student Development Office
Evans Student Center
Mr. Dan Jarboe, LPC
jarboed@obu.edu
Mrs. Sue Poole, LCSW
poolesw@obu.edu
- Health Services
870-245-5244
Evans Student Center
Dr. Wesley Kluck, MD
Mrs. Molly Wallace, RN
- Campus Ministries
870-245-5537
Evans Student Center
Mr. James Taylor, Director
Mrs. Anna Rosenthal, Asst. Director

Off-Campus Confidential Resources:

- Ouachita Behavioral Health & Wellness
201 N 26th St., Arkadelphia, AR 71923
870-246-2143

HEALTH CARE SERVICES

- Evans Student Center Dr. Wesley Kluck, MD Mrs. Molly Wallace, RN 870-245-5244
- Baptist Medical Center-Arkadelphia, Address: 3050 Twin Rivers Dr, Arkadelphia, AR 71923
870- 245-2622

- Sexual Assault Nurse Examiners (SANEs) perform a special forensic medical exam and collect evidence in a “rape kit.” Percy Malone Child Safety Center 870-403-6789

You can have a SANE exam within 72 hours after the sexual assault. There is no charge for the SANE exam, if it is received within 72 hours of the assault. The purpose of the SANE exam is to collect forensic evidence, receive preventative health care, and see if you have any physical injuries that need tending. The exam will take place at the sexual assault exam site, in a confidential room with trained staff and volunteers. During the exam, the SANE will collect evidence such as your clothing, DNA swabs, etc. Prior to the exam, preserve all evidence and do not shower, bathe, change clothes, douche, brush teeth, drink or eat, or throw away any clothing until police or medical personnel say it is okay. If you have done any of the above, it is still possible to do an exam, but it is not as effective. So if possible, please try to avoid any of these actions. Completing a SANE exam does not require you to file a police report. But, it does help preserve evidence in case you decide to file a police report at a later date.

COUNSELING AND MENTAL HEALTH SERVICES

- **On campus resources include:**
 - **Counseling Services:** The University offers counseling services free to currently enrolled University students, faculty and staff (and their dependents). The University counselors, Dan Jarboe, and Sue Poole, may be contacted by calling the Student Development Office at 870-245-5220 or appointments may be made online at <https://obu.edu/counseling/>.

- **Off campus resources include:**

Ouachita Behavioral Health & Wellness
201 N 26th St., Arkadelphia, AR 71923
870-246-2143

VICTIM ADVOCACY AND VICTIM SUPPORT SERVICES

- **On campus resources include:**
 - Campus victim advocacy/support services: Dan Jarboe and Sue Poole, OBU Counseling Services, Student Development Office, Evans Student Center, 870-245-5220. jarboed@obu.edu or poolesw@obu.edu
- **Off campus advocacy resources include:**
 - ACASA (Arkansas Coalition Against Sexual Assault)
www.acasa.us
800-656-4673]
 - RAINN (Rape, Abuse & Incest National Network)
www.rainn.org

800-656-HOPE (4673)]

VISA AND IMMIGRATION ASSISTANCE SERVICES

- Ian Cosh, Vice President for International and Community Development. PDSO Primary Designated School Official-Grant Center for International Education. **Senior International Officer. 870 245 5320**
- U.S. Citizenship and Immigration Services
<https://www.uscis.gov/>

FINANCIAL AID SERVICES

- Student Financial Services
Mrs. Susan Hurst, associate vice president for Financial Services
First Floor of Cone-Bottoms, Suite 130
870-245-5570
obustudentfinancialservices@obu.edu

File OBU Sexual Misconduct Policy —August 22, 2018