



Sexual Misconduct Policy

Office of Human Resources, Payroll & Records
1301 West Main • Wilburton, OK 74578
Phone: 918.465.1777 • Fax: 918.465.4421

Sexual Misconduct Policy for Faculty and Staff

It is the policy of Eastern Oklahoma State College to promote a cooperative work and academic environment in which there exists mutual respect for all students, faculty and staff. Harassment of employees based upon gender and/or sexual orientation is inconsistent with this objective and contrary to the College's non-discrimination policy. Acts of sexual misconduct are illegal under federal, state and local laws and will not be tolerated within the College. The College will follow procedures that will ensure that allegations of sexual misconduct are thoroughly investigated. Employees who believe they have been harassed under this policy are strongly encouraged to report the allegations of sexual misconduct to the Human Resources Director as promptly as possible. It is a violation of College policy for any member of the College community to engage in sexual harassment or to retaliate against any member of the College community for raising an allegation for sexual harassment, for filing a complaint alleging sexual harassment or for participating in any proceeding to determine if sexual harassment has occurred.

Procedures for Reporting Sexual Assault

In the event of a sexual assault, the victim is encouraged to report the crime to Campus Police, if the crime occurred on campus, or to the appropriate authority if the crime occurred off campus. Victims should take care to preserve evidence of a sexual assault, which is of paramount importance in offering proof of the crime. For example, victims should not bathe or wash their clothing. The victim of a sexual assault also should seek medical attention. To aid in their investigation and to gather information necessary to apprehend the assailant, Campus Police will interview the victim.

EOSC has trained police officers who are ready to assist victims of sexual assault and sexual battery 24 hours a day, 7 days a week.

Victims of Sexual Assault or Sexual Battery may call the EOSC Campus Police at 918-448-2365 to report the crime. Officers will then take an initial report, secure any evidence, begin an investigation, and contact Campus officials.

Prosecution of the assailant is a matter for the victim to consider apart from reporting the crime. The information will be treated with the confidentiality afforded any victim of crime. Employees also may report the crime to the Director of Human Resources who shall inform the Campus Police.

Anyone can report any instances of sexual harassment and sexual violence, as well as other crimes or violations of the Employee Code of Conduct, to the Director of Human Resources at 918-465-1777. A complaint should be filed as soon as possible, preferably within 180 calendar days of the incident. A complaint can be filed by calling or completing the online Employee Grievance Form.

If either the victim or the accused are employees, the incident will be addressed through the Director of Human Resources Office process once a complaint is filed.

EOSC strongly encourages individuals to report any instance of sexual harassment and sexual violence to the police.

Disciplinary Procedures in Cases of Sexual Misconduct

In addition to addressing sexual assault through the criminal justice system, cases involving sexual misconduct will be assigned to the Director of Human Resources. Individuals found guilty of sexual misconduct can face a number of sanctions including disciplinary suspension or termination. Further information regarding the disciplinary process may be obtained by contacting the Director of Human Resources Office at 918-465-1777.



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In addition to the disciplinary procedures described above, the following apply in cases of sexual misconduct: it is the policy of EOSC to provide the accuser and the accused the same opportunities to have others present during disciplinary proceedings. Requests to have others present should be made to the Director of Human Resources.

It is also the policy of EOSC to inform both the accuser and accused of the outcome of any institutional disciplinary proceedings from a sex offense. This includes the institution's final determination and sanctions, if any, against the accused. The Office of Human Resources shall coordinate this notification.

In cases of alleged sexual misconduct, the accuser shall have the right to request changes in their working situations, if such changes are reasonably available. The Office of Human Resources will receive, review, and process all such requests.

Sex Offenses, Domestic Violence, Dating Violence and Stalking

EOSC does not tolerate or condone any form of sexual misconduct, whether that misconduct is physical, mental, or emotional in nature. This includes, but is not limited to, rape, (including date or acquaintance rape) or sexual assault. In instances where there is reason to believe that EOSC policy prohibiting sexual misconduct has been violated, the college will pursue investigation and possible disciplinary action. A victim of sexual misconduct may elect to pursue the concern through the state criminal justice system as well as the college's Director of Human Resources Office system. EOSC sanctions may include warnings, probation, restrictions, suspension or termination.

Sexual assault is defined as having sexual contact or sexual intercourse with another person without the consent of that person. Consent is defined as positive cooperation due to an exercise of free will.

Registered Sex Offender information can be found online from the Oklahoma Sex and Violent Offender Registry.

Sexual Battery

Sexual Battery is the act of making unwanted and sexually offensive contact with an intimate body part of another person or which cause an immediate apprehension in the other person that such an act will occur. Intimate body parts include sexual organs, the anus, the groin or buttocks of any person and the breasts of a female. Battery includes situations in which the accused engages in the contacts described with a person who is incapable of giving consent or resisting due to alcohol or drugs.

Sexual Assault

Sexual assaults are also crimes under state law and are punishable by fines and/or imprisonment. Sexual Battery and Sexual Assault are both serious violations of Eastern's faculty standards, and Staff employee policies. In addition, these actions are subject to civil suit for damages. Sexual assault is defined as any unwanted touching of a sexual nature. This includes, but is not limited to:

- Unwanted kissing, touching, or fondling
- Penetration with a finger or a foreign object
- Rape (vaginal intercourse)
- Sodomy (oral-genital contact, anal intercourse)

These acts constitute sexual assault when they are attempted or committed through force, threat, or intimidation; when the perpetrator has been informed that his/her actions are unwanted: or through the use of the victim's incapacity or helplessness caused by alcohol or other drugs (e.g., when the victim is too intoxicated to consent). Alcohol or other drug use by the perpetrator does not diminish his or her



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responsibility for the assault. There are other forms of sexual misconduct that are not only offensive, but also are against the law. This includes obscene phone calls, “flashing” or indecent exposure, and voyeurism or “Peeping Tom” behaviors. Victims of these actions are often traumatized.

Perpetrators of these crimes often progress to more serious sexual assaults. Oklahoma has some of the toughest laws in the nation on sexual battery. While normally a misdemeanor in other states, it is a felony in Oklahoma, punishable by up to 10 years in state prison. Under Title 21, Section 1123 (b) of the Oklahoma Statutes, the definition of sexual battery is:

- No person shall commit sexual battery on any other person. “Sexual battery” shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.
- Any person convicted of a violation of subsection B of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

Note: A conviction of Sexual Battery will also result in the person being required to register as a sex offender with the Oklahoma Sex Offender Registry- and stay registered for the rest of their lives.

Sexual Harassment

Sexual Harassment is unwanted, unwelcome, and repeated behavior of a sexual nature. Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature made by someone from, or in, the work setting when:

1. It is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in employment decisions or evaluations; or
2. The conduct has the purpose or effect of interfering with an individual’s work performance, or creating an intimidating, hostile or offensive academic, work environment.

Stalking

Stalking can be defined as a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear.

Stalking can include:

- Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or email.
- Repeatedly leaving or sending victim unwanted items, presents, or flowers.
- Following or lying in wait for the victim at places such as home, school, work, or recreation place.
- Making direct or indirect threats to harm the victim, the victim’s children, relatives, friends, or pets.
- Damaging or threatening to damage the victim’s property
- Harassing victim via the internet, social networking sites, or other electronic means.
- Posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth.
- Obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim’s garbage, following the victim, contacting victim’s friends, family work, or neighbors, etc.



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Stalking is **SERIOUS** and potentially dangerous behavior. It should not be taken lightly or ignored, as the incidents may escalate in the frequency, severity, and level of intrusion/discomfort. Being stalked can be an exhausting, terrifying, and annoying experience. Unfortunately, in stalking cases, the victim - and not the stalker- may be forced to make changes in their behavior. It's not fair, and most people don't like hearing this. However, if you want to protect yourself and your loved ones, it may be necessary to make some temporary or long-term adjustments to prevent the stalker from threatening your privacy and safety.

Although you may feel compelled (or angered) enough to confront the stalker, this is usually counter-productive as it ultimately gives them what they want (contact with the victim) and potentially aggravates the problem and increases the likelihood of violence. It is important to seek help and utilize your resources to regain your sense of normalcy and maintain your right to feel safe.

Key Public Health Issues

- Victims often are blamed for the assault perpetrated against them.
- A shortage of services for victims, particularly in SE Oklahoma, further discourages victims from reporting the crime or seeking assistance.
- The client records of sexual assault programs are not legally protected as privileged communication, and may be subpoenaed by the courts. This can be devastating to a victim.
- Very few rehabilitation programs exist for perpetrators, so those who are convicted may rape again after release from prison or probation.

EOSC has trained police officers who are ready to assist victims of sexual assault and sexual battery 24 hours a day, 7 days a week. Victims of sexual assault or sexual battery may call the EOSC Campus Police at 911, ext. 718 or 918-448-2365 to report the crime. Officers will then take an initial report, secure any evidence, begin an investigation, and contact Campus officials.

Students, faculty, and staff should become familiar with the rules and regulations in their respective manuals concerning relationships, sexual harassment, and complaints.

The Federal Campus Sexual Assault Victims' Bill of Rights is as follows:

- Survivors shall be notified of their options to notify law enforcement.
- Accuser and accused must have the same opportunity to have others present.
- Survivors shall be notified of counseling services.

Programs concerning sexual assault include sessions of periodic emails, flyers, brochures, etc. Sexual assault education programs are available through the Campus Police department. Campus Police partners with Choctaw Nations Project Safe and DHS to provide training to employees concerning sexual assault and domestic violence each semester. Campus Police will sponsor a minimum of one training on each semester.

Domestic Violence

EOSC prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking. Domestic violence is a serious community problem which affects individuals of all races, religions, sexual orientations, and socio-economic backgrounds. It impacts people of all ages including seniors and juveniles.

The EOSC Police Department agrees to respond to acts of domestic violence as crimes. Victims of domestic violence will be treated with respect and dignity and will be given all available assistance by law



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enforcement personnel responding to an incident of domestic violence.

The Domestic Violence Protocol for Law Enforcement provides guidelines and establishes standards for public safety call takers, dispatchers, first responders and investigators in handling domestic violence incidents. The Protocol seeks to interpret and apply statutory and case law relating to domestic violence incident response and investigation. Particular attention is given to protecting victims of domestic violence, including children, other members of the household and pets, through enforcement of restraining orders, medical care, and working with support agencies to provide alternate shelter, relocation services, counseling and legal services. Local agency training programs and materials will supplement information provided in the Protocol.

Felony

1. An arrest shall be made in the event that there is probable cause to believe that a felony has occurred. All suspects arrested should be booked into the County Jail or Juvenile Hall. A pro-arrest policy should be implemented by all agencies.
2. If an officer has probable cause to believe that a felony has occurred, an arrest shall be made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.

Misdemeanor

1. The suspect shall be arrested in the event that a misdemeanor domestic violence incident occurs in the officer's presence. Such situations include, but are not limited to, an officer who witnesses an act of domestic violence, a violation of a verifiable restraining order or illegal possession of a weapon.
2. When a misdemeanor domestic violence assault or battery has been committed outside the officer's presence, and the victim is the suspect's spouse, former spouse, cohabitant, former cohabitant, fiancée, parent of his or her child, or a person with whom the suspect has had or is having an engagement relationship or a current or prior dating relationship, a peace officer may arrest the suspect without the need of a private person's arrest. This will also apply if the assault or battery involved a person age 65 or older where the elderly victim is related to the suspect by blood or legal guardianship.

An arrest shall be made if the officer has probable cause to believe that the suspect has violated a domestic violence protective order, restraining order, emergency protective order, or elder abuse/dependent adult protective order, even when the crime did not occur in the officer's presence. Upon completion the officer will provide the victim with a safe line card and make appropriate contacts as individual needs dictate.

Definition of Consent

Effective Consent is:

- informed;
- freely and actively given;
- mutually understandable words or actions; and
- indicates a willingness to participate in mutually agreed upon sexual activity

What to do if you are a Victim of Sexual Violence

1. If you are not safe and need immediate help, call the police. If the incident happened on campus, call the EOOSC Campus Police Department at 918-465-1718. If the incident occurred elsewhere in Wilburton, call the Wilburton Police Department at 918-465-5371. If the incident happened anywhere else, call the law enforcement agency that has jurisdiction in the location where it occurred.
2. Do what you need to do to feel safe. Go to a safe place or contact someone with whom you are comfortable.



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3. You can call 800-656-HOPE (4673) to get advice and discuss options for how to proceed.
4. Do not shower, bathe, douche, change or destroy clothes, eat, drink, smoke, chew gum, take any medications or straighten the room or place of the incident. Preserving evidence is critical for criminal prosecution. Although you may not want to prosecute immediately after the incident, that choice will not be available without credible evidence. The evidence collected can also be useful in the campus conduct process.
5. Go to the McAlester Regional Emergency Room to receive care for any physical injuries that may have occurred. While in the emergency room, treatment will be provided for sexually transmitted diseases and to prevent pregnancy. If you need accommodations these will be provided.
6. If you call 800-656-HOPE (4673), a sexual assault nurse examiner (SANE), a police officer and a rape volunteer advocate will be sent to the exam site or you will be transported to them.
7. Upon arrival at McAlester Regional Emergency Room, you will be taken to a private exam area. The nurse, advocate and police officer will be directed to this same location. You will be examined to treat any injuries and to gather evidence.
8. The rape advocate will support you throughout the entire exam, which will be performed by the nurse. The advocate will provide a packet of written materials that contains information about common reactions to rape, follow-up medical needs and support services.
9. If you call 800-349-7062 Ext. 6917 you can reach the local Sexual Assault Response Team.

On and Off Campus Resources

Sexual violence can be very emotionally disruptive, and it takes time to come to terms with such a major stress. In addition to support that may be found in family and friends, the following agencies and departments can serve as resources for you.

It is important to be aware that different individuals who you may contact for assistance following an incident may have different responsibilities regarding confidentiality, depending on their position. Under state law, some individuals can assure the victim of confidentiality, including counselors and certified victims' advocates. In general, however, any other institution employee cannot guarantee complete confidentiality, unless specifically provided by law. As is the case with all colleges and universities, EOSC must balance the needs of the individual victim with an obligation to protect the safety and well-being of the community at large.

Victim Advocate - Confidential Reporting Option

The Victim Advocate can confidentially provide employees with information about on and off campus resources available to victims.

Counseling Resources - Confidential Reporting Option

The Wilburton Health & Wellness Center
802 Hwy 2 North
Wilburton, OK 74578
918-465-0005

Other Local Services Available To Victims - Non-Confidential Reporting Options

EOSC Campus Police Department
918-465-1718

Wilburton Police Department
918-465-5371



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EOSC Director of Human Resources Office
918-465-1778

Interim Measures

The Director of Human Resources Office can put in place interim measures for victims of sexual violence as needed. A formal complaint does not need to be submitted to have interim measures put in place. EOSC will maintain as confidential any interim measures provided as long as it does not impair the ability to provide the interim measures.

1. **Assistance in Reporting:** The Director of Human Resources Office can assist you in filing a complaint with the institution conduct process and the appropriate law enforcement agencies against the employee(s) who caused harm.
2. **No Contact Order:** The Director of Human Resources Office can put in place a No Contact Order between the complainant and the respondent, which would prohibit contact between both parties through any means of communication, as well as not having others make contact on their behalf.
3. **Emergency Protective Order:** The Director of Human Resources Office can assist you in filing for an Emergency Protective Order in court. This is a court-ordered petition that prohibits contact between the complainant and respondent.
4. **Safety Measures:** The Director of Campus Security can coordinate any reasonable arrangements that are necessary for your ongoing safety. This includes transportation arrangements or providing an escort.
5. **Living Arrangements:** For employees living on campus, the Director of Campus Housing can assist in changing your on-campus living arrangements or that of the accused to ensure safety and a comfortable living situation.
6. **Other Interim Measures:** The Director of Human Resources Office can coordinate any reasonable arrangements to address the effects of the sexual violence on you, including connecting you with counseling, health care or academic support resources.

When The Director of Human Resources Office becomes aware of an employee who potentially could have been a victim of sexual violence, they will contact the victim in writing through EOSC email to share these interim measures, reporting options and other resources available. This will be done no matter the location of the incident.

Reporting

All forms of sexual violence should be reported, no matter the severity. EOSC's primary concern is safety; therefore individuals should not be deterred in reporting even if the use of alcohol or other drugs was involved.

EOSC encourages victims of sexual violence to talk to someone about what happened so they can receive support and so that the institution can respond appropriately. EOSC offers both confidential reporting and non-confidential reporting options. It is important to be aware that different individuals who victims can contact for assistance following an incident may have different responsibilities regarding confidentiality, depending on their position. Under state law, some individuals can assure a victim of confidentiality, including counselors and certified victims' advocates. In general, however, any other institution employee cannot guarantee complete confidentiality, unless specifically provided by law. As is the case with all colleges and universities, the institution must balance the needs of the individual victim with an obligation to protect the safety and well-being of the community at large.

Different employees on campus have different abilities to maintain a victim's request for confidentiality.



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- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.”
- Other employees may talk to a victim in confidence, and generally report only that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger an institution investigation into an incident against the victim’s wishes. This report is done through a Clery Report and does not include the victim’s name or other identifying information.
- Thirdly, some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Director of Human Resources Office.

Confidential Reporting Options

Confidential reporting options provide employee with the ability to confidentially report and discuss an instance of sexual violence without their information being shared with others. Please note confidential reporting limits the institution’s ability to respond to incidents. Employees can use the Employee Grievance Form to file a confidential report.

Professional Counselors

Professional and licensed counselors who provide mental health counseling (including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim’s permission. These individuals are also not required by the Clery Act to report.

Non-Confidential Reporting Options

The Clery Act requires all other employees (excluding counselors and Victim Advocate) who become aware of an instance of sexual violence to report the instance to EOSC Police. The victim’s name should not be reported to the police without the victim’s permission. The report should include the nature, date, time, and general location of an incident. This is a limited report which includes no information that would directly or indirectly identify the victim. This allows for the institution to track patterns, evaluate the program, and develop appropriate campus-wide responses.

When an instance of sexual violence is reported to a “responsible employee” the reporter can expect the incident will be reported to the The Director of Human Resources Office. A responsible employee must report to The Director of Human Resources Office all relevant details about the alleged sexual harassment or sexual violence shared by the victim including names, date, time and specific location of the alleged incident. To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the institution’s response to the report. When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the institution will investigate the alleged sexual violence, end any sexual violence, prevent the sexual violence from reoccurring, and educate on sexual violence.

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligations and if the victim wants to maintain confidentiality, then the victim should be directed to a confidential resource.

Requests for Confidentiality from a Non-Confidential Reporter

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or conduct action taken, EOSC must weigh that request against the obligation to provide a safe environment for all employees, including the victim.



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If the institution honors the request for confidentiality, a victim must understand that the institution's ability to meaningfully investigate and respond to the incident may be limited.

Although rare, there are times when the College may not be able to honor a victim's request in order to provide a safe environment for all employees.

When weighing a victim's request for confidentiality or that no investigation or conduct process be pursued, the following will be considered:

The increased risk that the alleged respondent will commit additional acts of sexual or other violence, such as:

- whether there have been other sexual violence 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 violence;
- whether the alleged respondent threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple respondents;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the institution possesses other means to obtain relevant information of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim'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 presence of one or more of these factors could lead the institution to investigate and, if appropriate, pursue conduct action. If none of these factors is present, the institution will likely respect the victim's request for confidentiality. If it is determined that the institution cannot maintain a victim's confidentiality, the institution will inform the victim prior to starting an investigation. EOSC will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. The institution may not require a victim to participate in any investigation or conduct process. Retaliation against the victim will not be tolerated.

Reporting to the Police

EOSC strongly encourages individuals to report sexual violence and any other criminal offenses to the police. This does not commit you to prosecute but will allow the gathering of information and evidence. The information and evidence preserve future options regarding criminal prosecution, institution conduct actions and/or civil actions against the perpetrator.

If the incident happened on campus, it can be reported to the EOSC Campus Police Department in Wilburton, 1301 W. Main in Student Support Services at 918-465-1718. If the incident occurred elsewhere in Wilburton, it can be reported to the Wilburton Police Department at 111 N Central Ave, Wilburton, OK 74578 or at (918) 465-5371. If the incident happened anywhere else, it can be reported to the local law enforcement with jurisdiction in the location where it occurred.

Please know that the information you report can be helpful in supporting other reports and preventing further incidents.

Report to Human Resources

Anyone can report any instances of sexual violence to the Director of Human Resources Office at 1301 W. Main Wilburton or at 918-465-1778. A complaint should be filed as soon as possible, preferably



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within 180 calendar days of the incident. A complaint can be filed online using the Employee Grievance Form. If either the victim or the accused is a student, the incident will be addressed through the Director of Student Life Office process once a complaint is filed. Additionally, as stated above, EOSC strongly encourages individuals to report any instance of sexual violence to the police.

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