



**Title IX Policies & Procedures Handbook**  
(2020-2021)

## TABLE OF CONTENTS

INTRODUCTION.....	Page 2
POLICIES.....	Page 3
TITLE IX TERMS.....	Page 4
TITLE IX PROHIBITED CONDUCT.....	Page 5
TITLE IX REPORT & RESPONSE PROCEDURES.....	Page 7
SUBMITTING A REPORT	
SUPPORTIVE MEASURES	
PROCESS ADVISORS	
INITIAL REPORT REVIEW	
DISMISSAL APPEAL	
TITLE IX REPOSENSE PROCEDURE	
INFORMAL RESOLUTION	
DISCIPLINARY SANCTIONS	
STANDARD OF PROOF	
JURISDICTION	
TITLE IX HEARING PANEL PROCESS.....	Page 11
WRITTEN APPEAL.....	Page 13
WRITTEN APPEAL PROCEDURES	
SWOSU TRAINING & EMPLOYEE RESPONSIBILITIES.....	Page 14
RESPONSIBLE EMPLOYEES	
OFFICIALS WITH AUTHORITY	
TITLE IX STAFF TRAINING	
RESOURCES.....	Page 15
TITLE IX INVESTIGATION PROCESS FLOWCHART.....	Page 16

## **Introduction**

Southwestern Oklahoma State University (SWOSU) acknowledges the Department of Education changes made to Title IX complaint investigation procedures under the guidance of Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (2020).

SWOSU recognizes Title IX in addressing issues related to sexual harassment and sexual violence. To address instances of sexual harassment, and to ensure an environment free of harassment and discrimination, SWOSU has developed the Title IX Policies & Procedures Handbook to address conduct violations under the policies held therein. These policies and procedures ensure a fair and prompt due process for Complainants and Respondents under Title IX guidance.

## **Policies**

### **Non-Discrimination Statement**

SWOSU's policy is in compliance with Title VII and Title IX. SWOSU does not discriminate against any individual on the basis of race, color, creed, religion, alienage or national origin, citizenship status, age, sex, gender identity, disability, sexual orientation, genetic information, marital status, veteran status, or any other characteristic protected by applicable federal, state, or local law in any of its policies, practices or procedures. This policy includes, but is not limited to, admissions, employment, financial services, residential life, educational programs, and other activities the university operates.

### **Zero Tolerance Environment**

SWOSU is a zero tolerance environment related to any kind of discrimination or harassment. This includes sexual related discrimination as covered by Title IX and Title VII, respectively. Title IX states: "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 educational program or activity receiving federal financial assistance."

### **Retaliation Policy**

SWOSU prohibits retaliation against anyone who has submitted a complaint for discrimination, harassment, or sexual misconduct under this policy or local, state, or federal laws. SWOSU also prohibits retaliation against someone participating in an investigation, or assisting another to submit a complaint of discrimination or harassment.

If you are experiencing retaliation or aware of retaliation, please notify the Title IX Officer or Deputy Title IX Officer.

Dean of Students serves as the Title IX Officer and the Assistant Vice President of Human Resources serves as the Deputy Title IX Officer for incidents within the entire SWOSU community. Any concerns should be immediately reported using the forms provided on the Dean of Students website or by directly contacting the Dean of Students.

## 1.1 Title IX Terms

1.1A Actual knowledge: when an incident is reported to the Title IX Officer or Deputy Title IX Officer, the university recognizes having actual knowledge of the alleged incident and will utilize policies and procedures set in place to address reports.

1.1B Informal resolution: informal resolutions are mutually agreed upon terms between the Complainant and Respondent that do not involve a formal conduct process.

1.1C Written notification: Complainants and Respondents shall be notified of conduct processes and updates via email, written letter, facsimile, or university messaging.

1.1D Decision-maker: During Title IX Hearings, the decision-maker is an individual or group tasked with evaluating evidence to make a determination of responsibility as well as any sanctioning at the conclusion of a conduct case. Investigators, the Title IX Officer, and the Deputy Title IX Officer cannot take on the role of Decision-maker in formal conduct processes.

1.1E Operating days: any day the university is open and operating for business as defined by the calendar of administrative office days shall be considered operating days.

1.1F Respondent: a person who has been alleged to have violated a university policy or alleged to have committed misconduct is considered a Respondent.

1.1G Complainant: a person who has made allegations or submitted a grievance against another person shall be a Complainant.

1.1H Consent: permission that is given:

- a. by someone who is of legal age;
- b. without force or coercion (a real or reasonably perceived threat of violence);
- c. without a vulnerability due to age, mental impairment, or disability status;
- d. without being unconscious;
- e. without being sufficiently impaired by drugs or alcohol to render an individual unaware of their decisions.

1.1I Title IX Officer: an individual or individuals designated by the university to be responsible for the administration and implementation of Title IX compliance.

1.1J Deputy Title IX Officer: a faculty, staff, or administrator designated by the university to assist the Title IX Officer in the administration and implementation of Title IX compliance.

1.1K Investigator: an individual designated by the university to investigate instances of alleged conduct violations.

1.1L Student: The term “student” includes all persons enrolled at the university, both full-time and part-time, pursuing undergraduate, graduate or professional studies. Persons who are not officially enrolled for a particular term but who have a relationship with the university are considered “students.” This definition includes but is not limited to incoming freshmen, individuals auditing a course, transfer students, anyone participating in university sponsored programs and activities for students, and persons who enroll for courses from time to time, and participants in third party programs. Failure to observe the following regulations will subject the student to disciplinary action.

1.1M Preponderance of the Evidence: is defined as whether the evidence shows that it is more likely than not that misconduct occurred.

## 2.1 Title IX Prohibited Conduct

The following definitions describe incidents of non-academic misconduct that meet requirements for a Title IX response.

2.1A Sexual Harassment: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following context:

- When submission to or rejection of such behavior is made either explicitly or implicitly a term or condition of an individual's employment, academic standing, or position within a student organization; or
- unwelcome behavior that a reasonable person would believe is "so severe, pervasive, and objectively offensive" that it denies a person equal access to education; or
- a single instance of sexual assault, dating violence, domestic violence, or stalking

2.1B Sexual Assault: Engaging in non-consensual penetration of the mouth, genitals or anus with an object or body part; incest is included within this definition.

2.1C Fondling: inappropriate physical contact:

- a. that is deliberate non-consensual touch of another person's genitals, buttocks, or breasts; or
- b. in which the genitals, buttocks, or breasts are used to deliberately touch another person without their consent; or
- c. that is non-consensual and deliberate touching of another person's body for the purpose of sexual gratification.

2.1D Stalking: Engaging in two or more acts intended to follow, monitor, observe, surveil, threaten, or communicate to or about a person, or interfere with a person's property. Stalking is a course of conduct directed at a specific person that would reasonably cause someone to:

- a. Fear for the person's safety or the safety of others; or
- b. Suffer substantial emotional distress.

2.1E 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 parties' 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. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

2.1F Domestic Violence: A reasonably perceived threat or direct act of violence committed:

1. by a current or former spouse or intimate partner of the victim; or
2. by a person with whom the victim shares a child in common; or
3. by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or
4. by 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

5. by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.



## **Title IX Report & Response Procedures**

### **Submitting a Report**

Students, Faculty, Staff, and guests are encouraged to submit a report in the event an incident of sexual harassment or sexual assault occur. Complaints may be submitted using the Dean of Students reporting forms located on the Dean of Students web page ([CLICK HERE](#)), or by direct report to the Title IX Officer or Deputy Title IX officer. Reports submitted are maintained as confidential. Reports not submitted directly to the Title IX Officer or Deputy Title IX Officer may not constitute the institution having Actual Knowledge of the incident.

Each report submitted to the institution is reviewed by the Title IX Officer or the Deputy Title IX Officer. Allegations that, if assumed true, would indicate a Title IX policy violation shall be subject to investigation. Allegations that would not meet criteria of a Title IX violation are referred to the appropriate misconduct process.

### **Supportive Measures**

Complainants and Respondents are entitled to supportive measures that address the effects of being victimized and/or being accused. Examples of supportive measures may include, but are not limited to:

- a. Assistance in filing a police report
- b. Reasonable arrangements for ongoing safety
- c. Connection to support services on campus and in the community
- d. Enactment of a “No Contact Order” between Complainant and Respondent
- e. Make arrangements with academic classes
- f. Change residence hall assignments
- g. Change parking
- h. Altering work schedules
- i. Campus ban
- j. Temporary Suspension

### **Process Advisors**

Complainants and Respondents are entitled to an advisor throughout the formal conduct process. Process Advisors are available to explain the conduct process, answer questions with regards to a conduct case, and assist with a cross-examination and presenting evidence during a Hearing. Witnesses and others involved with the reported incident, as well as any individual participating in the appeal process with a specific role, shall not be Process Advisors. Each party may choose to utilize a Process Advisor provided by the institution, or present their own advisor to the process.

Process Advisors are not required, nor expected, to provide argumentation for Complainants and Respondents. Process Advisors will represent each party by asking questions of witnesses during a formal Hearing. These questions and any opposing arguments are not developed nor vetted by the Process Advisor. Complainants and Respondents are expected to present questions they deem pertinent for the Process Advisor to ask during a Hearing.

## **Initial Report Review**

Submitted reports are reviewed to determine appropriate processes in accordance with Title IX and SWOSU Student Code of Conduct. Reports are reviewed to make a determination as to whether the alleged conduct within the scope of Title IX and whether the incident occurred within an education program or activity.

A formal complaint may be dismissed under the following circumstances:

- a. if a Complainant notifies the Title IX officer in writing of a request to withdraw a formal complaint; or
- b. if a Respondent is no longer a student with the institution; or
- c. if the circumstances of the incident prevent the institution from gathering evidence that would provide sufficient evidence to make a determination of the allegations.

## **Dismissal Appeal**

Complainants and Respondents may submit an appeal to the Vice President of Student Affairs for a review of the dismissal rationale, in the event one or both parties disagree with a dismissal. If approved, The Title IX Officer will initiate Title IX Response Procedures.

If it's determined that the incident is not within the scope of Title IX, the alleged misconduct shall be referred to the appropriate conduct process. If it's determined that the incident should be handled through the Title IX process, the Title IX Officer will continue with the Title IX Response procedure.

Dismissal may initiate Student Code of Conduct procedures regardless of the allegations being dismissed from the Title IX process.

## **Title IX Response Procedure**

Once the institution has *Actual Knowledge* of an incident the Title IX Officer or Deputy Title IX Officer will enact this procedure:

- 1) Supportive measures will be implemented as needed.
- 2) Title IX officer, or their designee, will provide *written notification* to the Respondent and Complainant including the allegation(s) and conduct Charges.
- 3) Both the Complainant and Respondent may request and meet with a Process Advisor of their choice prior to any investigation interview meetings. Process Advisors may be present at any and all conduct meetings.
- 4) The Title IX officer, or their designee, will begin an investigation. The investigator will interview the parties and witnesses, and collect evidence pertinent to the case. All parties shall have equal opportunity to present evidence, facts, or witnesses relevant to the investigation.
- 5) A Title IX investigation report will be written by the investigating officer that includes relevant evidence, witness accounts and a timeline of the investigation.
- 6) A copy of the investigation report shall be provided to both Complainant and Respondent. No edits shall be made by the Complainant and Respondent to documented accounts of the

incident. Complainants and Respondents may make further statements to be included in the Title IX Report.

- 7) If determined by the Title IX Officer to be appropriate and safe for the campus community, an *Informal Resolution* may be discussed to resolve the grievance. A decision to engage in the informal resolution process must be agreed upon and signed by both the Complainant and the Respondent. If a resolution is reached, a report of the evidence and outcome must be signed by both parties. A copy of the report and outcome shall be provided to both the Complainant and Respondent.
- 8) If an informal resolution is deemed unsafe or inappropriate, or no informal resolution is agreed upon, a Conduct Hearing shall take place.
  - a. An informal resolution is not provided for instances when SWOSU personnel are alleged to have sexually harassed a student.

### **Informal Resolution**

In some instances, the university may explore informal resolutions with the Complainant and Respondent. An informal resolution allows SWOSU to facilitate a mutually agreed upon outcome, within certain limits. Informal resolutions may only occur with the voluntary and written consent of both the Complainant and Respondent.

Informal resolutions may include:

- Mediation
- Mutual agreements
- Behavioral plans
- Sanctioning

Informal resolution agreements may be ended by either party at any time to continue a formal conduct process. All agreed upon resolutions will be documented by the Title IX Officer.

### **Disciplinary Sanctions**

Sanctions may be imposed on those found responsible for violating Title IX policies. To see a full list of possible disciplinary sanctions, please review the Student Code of Conduct by clicking [HERE](#), or by visiting <https://bulldog.swosu.edu/publications/handbooks/student/code-of-conduct.php>

### **Standard of Proof**

A Preponderance of the Evidence standard shall be used for conduct investigations when determining if a party is responsible for misconduct. Preponderance of the Evidence is defined as whether the evidence shows that it is more likely than not that misconduct occurred.

### **Jurisdiction**

The university includes the following as its jurisdiction when responding to cases of sexual misconduct: any university event, location, or experience in which the incident occurred. Jurisdiction

may include, but is not limited to, campus buildings, student activities, university sanctioned trips, classrooms, athletic events, and Residence Halls.

## Title IX Hearing Process

For cases that do not include Informal Resolutions a Hearing will be scheduled on a date no later than thirty (30) operating days following the request for a Hearing. The Hearing Chair shall convene a hearing unless unanticipated or significant circumstances prevent this. All hearings are closed and information presented in them and all supporting documents are confidential.

No request for new witnesses and/or evidence may be presented at the Hearing unless the Chair receives notification and approves the request at least 5 days prior to the scheduled Hearing. During the Hearing, the Complainant and Respondent have an opportunity to offer evidence and cross-examine with the assistance of their Process Advisor.

- A member of the RUSO pool of adjudicators will serve as Chair of the hearing. The Chair is a voting member of the panel. The Chair maintains the procedure and ensures an equal opportunity for both the Complainant and Respondent to present their evidence and cross-examine.
- A *Hearing Panel* will hear all evidence and arguments from the Complainant and Respondent and serves as the *Decision-maker* for the Hearing. The Hearing Panel will have no less than 3 total members and will evaluate evidence and make decisions for the case outcomes. The Hearing Panel shall consist of a combination of faculty, staff, and the Chair.
- Cross-examination questions must pertain to evidence or the events reported in the allegation. Questioning and cross-examinations must be civil and relevant to the case. Superfluous, irrelevant, and arbitrarily antagonistic questions may be dismissed by the Hearing Chair.
  - a. Questions and evidence that include a complainant's sexual history prior to the alleged events are not permissible;
  - b. Neither the Complainant nor Respondent may have any medical or treatment records used in an investigation without the party's written consent.

This Hearing will have the following procedure:

- 1) The Chair will explain the Hearing procedure.
- 2) The Chair will then read a statement explaining the allegations made against the Respondent as well as the misconduct violation(s) and definition(s). The Chair will then read the Preponderance of Evidence definition used when determining outcomes of misconduct.
- 3) The Complainant's Process Advisor will then have an opportunity to present evidence, question witnesses, and offer arguments for the allegations made against the Respondent. The Respondent's Process Advisor will have an opportunity to ask questions of each witness, after the Complainant's questioning with each witness has ended. The Hearing Panel may ask questions of any and all Witnesses presented by the Complainant throughout each section of the Hearing.
- 4) The Respondent's Process Advisor will then have an opportunity to present evidence and question witnesses. The Complainant's Process Advisor will have an opportunity to ask questions of each witness, after the Respondent's questioning with each witness has ended. The Hearing Panel may ask questions of any and all Witnesses presented by the Respondent throughout each section of the Hearing.
- 5) The Hearing Panel may then ask any final questions of the Complainant and Respondent. Hearing Panel may also submit clarifying questions of any other evidence collected and of any Witnesses.

- 6) After the Hearing Panel has determined that all necessary information has been presented and questions answered, the Chair will close the Hearing. The Hearing Panel will determine whether or not the Respondent is responsible for a violation of the SWOSU conduct policies and assign any appropriate sanctioning, as necessary. The Hearing will result in one of two outcomes:
  - a. the Respondent is held Responsible for misconduct; or
  - b. the Respondent is held Not Responsible for misconduct
- 7) The Hearing Panel shall provide a written explanation of the outcome and evidence used in making the determination of the case. The Panel will assign appropriate sanctions for the misconduct, if found Responsible. The Chair will submit a report of the evidence and outcome to the Title IX Officer.
- 8) The Title IX Officer will provide a copy of the conduct outcome to both the Complainant and Respondent.

## Written Appeal

The decision of the Hearing Panel shall be final and not appealable except in instances where it's believed that procedural deficiencies, newly discovered evidence, or bias or conflict of interest affected the outcome.

To initiate an appeal, a request must be submitted by the Complainant or Respondent. The request and reason for appeal shall be submitted to the Vice President of Student Affairs. The appeal request must be delivered to the Vice President of Student Affairs before 4pm on the 5th operating day after the Complainant and Respondent were sent notifications of the hearing outcome.

The Hearing Panel's decision will not become effective until after the Written Appeal has been processed, unless a *temporary suspension* remains in place in accordance with the policies herein.

### Written Appeals Procedure

An appeal may only be submitted if there is newly discovered evidence, suspected bias, or allegation of conflict of interest that affected the outcome of the Hearing. Within thirty (30) operating days of an appeal request, an appeal meeting will be scheduled unless unanticipated or significant circumstances prevent this. The Vice President of Student Affairs will provide the appeal request and the corresponding report to the Appeals Committee no later than five (5) operating days prior to the scheduled appeal meeting.

- The Appeals Committee will review the Investigation Report, the Hearing Report and appeal request to make a determination for the case outcome. The Appeals Committee will have no less than three members.
- The Committee will include the Vice President of Student Affairs as the Committee Chair. At least two other members may include any number of other administrators, faculty, and staff, and may include no more than one student.

The Appeal will have the following procedure:

- 1) The Appeals Committee will review the Investigation Report, Hearing Panel report and appeal letter to make a determination using the Preponderance of Evidence standard. The appeal will result in one of three outcomes:
  - a. Uphold the decision of the Hearing Panel; or
  - b. Overturn the decision of the Hearing Panel; or
  - c. The committee may make adjustments to the assigned sanctions.
- 2) The Committee Chair will provide the Title IX Officer with a written explanation of the outcome and evidence used to make the determination. The Title IX Officer will provide a final report of the appeal outcome and rationale to both the Complainant and Respondent.

The decision of the Appeals Committee is final.

## SWOSU Training and Employee Responsibilities

### Responsible Employees

Employees with certain roles at SWOSU are considered Responsible Employees. All regular members of the university's Administrative and Executive Councils are considered Responsible Employees. Responsible employees are required to notify the Title IX Officer or Deputy Title IX Officer of reports of sexual misconduct involving students, faculty, staff, or their guests.

Any person may trigger a response from the institution to address allegations of sexual misconduct. Incidents of sexual misconduct are not always reported to Responsible Employees. Other employees may be made aware of an incident involving sexual misconduct and may contact and report the incident to the Title IX Officer. A victim is still able to discuss the conduct process and informal resolution process with the Title IX Officer prior to submitting any formal complaint.

### Officials with Authority

Officials with Authority are persons identified by the institution to respond to incidents of sexual misconduct. Once these individuals are informed, the institution has *actual knowledge* of an incident and shall respond.

#### Title IX Officer & Dean of Students

- Joshua Engle | (580) 774-3768
- [Joshua.Engle@swosu.edu](mailto:Joshua.Engle@swosu.edu)

#### Deputy Title IX Officer & Assistant Vice President of Human Resources

- David Misak | (580) 774 – 3248
- [David.misak@swosu.edu](mailto:David.misak@swosu.edu)

Anyone may submit a report using the online form located on the Dean of Students page:  
<https://bulldog.swosu.edu/student-services/dean-students/index.php>

### Title IX Staff Training

Title IX Coordinator & Deputy Title IX Coordinator are required to participate in Title IX trainings to maintain appropriate understanding of Title IX regulations and procedures.

Process Advisors will receive annual training to review their roles and the Title IX conduct process. Responsible employees will be provided annual training on Title IX and their responsibilities for submitting reports.

Hearing panel members shall receive training prior to a hearing. This training is provided to understand the hearing panel procedure, cross-examinations, and how to evaluate the evidence using the evidentiary standard.

A list of attended trainings are available upon request made to the Title IX Officer.



## Resources

Campus	Community
<p><b>SWOSU Center for Health &amp; Wellbeing</b></p> <ul style="list-style-type: none"> <li>▪ Location: Wellness Center</li> <li>▪ Phone: (580) 774-3776</li> <li>▪ Licensed Professional Counselors</li> <li>▪ School Nurse</li> </ul> <p><b>SWOSU Police Department</b></p> <ul style="list-style-type: none"> <li>▪ Location: Southeast corner of State and College, Weatherford, OK 73096</li> <li>▪ Phone: (580) 774-3111</li> <li>▪ Emergency: 9-11</li> </ul>	<p><b>A.C.T.I.O.N Associates local Advocacy</b></p> <ul style="list-style-type: none"> <li>▪ Hotline: (580) 323-2604</li> <li>▪ Office: (580) 322-8700</li> </ul> <p><b>Weatherford Police Department</b></p> <ul style="list-style-type: none"> <li>▪ Location: 201 SW Main St., Weatherford, OK 73096</li> <li>▪ Phone: (580) 772-7791</li> <li>▪ Emergency: 9-11</li> </ul> <p><b>Weatherford Regional Hospital</b></p> <ul style="list-style-type: none"> <li>▪ Location: 3701 E Main St., Weatherford, OK 73096</li> <li>▪ Phone: (580) 772-5551</li> <li>▪ Emergency: 9-11</li> </ul> <p><b>Sayre Police Department</b></p> <ul style="list-style-type: none"> <li>▪ Location: 1000 N 4th St, Sayre, OK 73662</li> <li>▪ Phone: (580) 928-2122</li> <li>▪ Emergency: 9-11</li> </ul> <p><b>Sayre Hospital</b></p> <ul style="list-style-type: none"> <li>▪ Location: 911 Hospital Dr, Sayre, OK 73662</li> <li>▪ Phone: (580) 323-9690</li> <li>▪ Emergency: 9-11</li> </ul>

SWOSU Title IX Investigation Process Flowchart

