

EAST CENTRAL UNIVERSITY SEXUAL MISCONDUCT POLICY

SEXUAL MISCONDUCT

A. **General Statement:** East Central University will not tolerate nor condone any form of sexual misconduct, whether physical, mental, or emotional in nature. This includes actions that are demeaning and includes but is not limited to, rape (whether the victim does or does not know the aggressor, and including "date rape," "acquaintance rape," and "gang rape"), sexual assault or sexual harassment. Where there is probable cause to believe that the University's policies prohibiting sexual misconduct have been violated, the University will pursue strong disciplinary action through its own student conduct system. Even if law enforcement and criminal justice authorities choose not to prosecute a particular matter, the University may still pursue the matter as a student misconduct matter warranting nonacademic disciplinary action by the University. Where it is determined that sexual misconduct is more likely than not to have occurred, University disciplinary sanctions can include suspension or expulsion.

B. **Definitions:** Due to the sensitive and often violent nature of incidents involving sexual misconduct the following definitions are provided for informational use by students and for guidance in the investigation and adjudication of alleged cases of sexual misconduct. It is possible that a particular action may constitute sexual misconduct even if not specifically mentioned in these examples:

1. "Rape" means all acts of sexual intercourse involving oral, vaginal, or anal penetration accomplished without consent and with a male or female (who may be of the same or opposite sex as the perpetrator).
2. "Rape by instrumentation" means any act in which any inanimate object or any part of the human body, not amounting to sexual intercourse, is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person.
3. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person in a lewd and lascivious matter and without the consent of that person. "Sexual battery" includes, but is not limited to, the touching of a person's genitalia, buttocks, or breasts.
4. "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature when:
 - a. submission to such conduct is made explicitly or implicitly a term or condition of leadership, membership in an organization, student social events, academic standing, or participation in any University activity.
 - b. submission to or rejection of such conduct by an individual is used as a basis for evaluation, particularly in making employment or academic decisions affecting the individual; or
 - c. such conduct has the purpose or effect of unreasonably interfering with the other individual's performance or creating an intimidating, hostile, or offensive educational and University environment.
5. "Consent" means the positive cooperation in act or attitude pursuant to an exercise of free will. The persons consenting must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. The determination regarding the presence or absence of consent shall be based upon the totality of the circumstances present in a particular case, including the context in which the alleged incidents occurred. Consent will not be implied from silence or passivity alone.
6. "Lack of consent" means:
 - a. the victim has not given consent; or

- b. the victim is incapable of giving consent because of mental, developmental, or physical disability, or lack of legal age of giving legal consent; or
- c. force of violence is used or threatened, accompanied by apparent power of execution to the victim or to another person; or
- d. the victim is incapable of resisting or giving consent as a result of being intoxicated by alcohol, beer, or being under the influence of drugs; or
- e. the victim is at the time unconscious of the nature of the act.

C. **Disciplinary Procedures in Alleged Cases of Sexual Misconduct:** Due to the sensitive nature of this category of student misconduct, special procedures have been established. All cases of sexual misconduct will be brought before the panel on sexual misconduct. This panel will consist of a health professional, a counseling professional, and a student services professional.

D. **Sexual Misconduct Special Concerns:** East Central University encourages the reporting of instances of sexual misconduct. To assure a proper balance between the rights and interests of the alleged victim of sexual misconduct and the alleged perpetrator of an act of sexual misconduct, and to encourage and foster a positive atmosphere for the prompt reporting and handling of all cases of alleged sexual misconduct, including encouraging alleged victims to testify and otherwise actively participate in the adjudication process, the following measures are adopted by the University for application to hearings regarding alleged instances of sexual misconduct:

1. Special Mandatory Rights in Cases Involving Alleged Sexual Misconduct

- a. The alleged victim shall be permitted to have a person or persons of his/her choosing accompany him/her throughout the disciplinary procedure.
- b. The alleged victim shall be permitted to be present during the entire disciplinary procedure (except during deliberations of the panel).
- c. The alleged victim shall have the right to be informed of the outcome of the hearing upon its conclusion by the panel.
- d. The person alleged to have engaged in sexual misconduct shall also be afforded all of the rights set forth.

2. Discretionary Procedures

Additionally, in the discretion of the panel reviewing a particular case, the following procedures may be deemed appropriate for use in conducting a review hearing regarding a case of alleged sexual misconduct. A panel shall have no duty to grant such measures in any case under review, but should consider the appropriateness of permitting such accommodations:

- a. The panel may, in its discretion, exclude evidence regarding the past sexual history of the alleged victim from discussion during the hearing. The past sexual history of the alleged victim with persons other than the alleged perpetrator shall be presumed irrelevant; and
- b. The alleged victim may be given the opportunity to make a statement to the panel regarding the impact that the alleged actions have had in his/her life and educational relationship with the University, if the alleged perpetrator is found to have engaged in sexual misconduct.

FACTS ABOUT SEXUAL ASSAULT

Some people have the wrong idea about sexual assault. They think the assailant was overcome with sexual desire, the victim was dressed too seductively, or "asked for it," or that all victims wanted sexual contact.

These ideas assume that sexual assault is motivated by passion. It isn't. Sexual assault is a violent crime, a hostile attack, an attempt to hurt and humiliate. Sex is only the weapon.

Sexual assault is a crime. In the state of Oklahoma, rape is defined as an act of sexual intercourse with a male or a female without consent where force or violence is used or threatened. Sexual battery is the touching, feeling or mauling of the body of another person without consent.

Sexual assault occurs with increasing frequency but remains the underreported crime in the criminal justice system. Nationwide, there is a rape every six minutes. A woman is beaten every 18 seconds; three to four million are battered every year. Three out of four women will be the victims of at least one violent crime during their lifetime.

In more than one-half of reported rapes, the rapist is an acquaintance, neighbor, friend or relative. Acquaintance rape is less likely to be reported to the authorities than rape by a stranger. Acquaintance rape frequently occurs under circumstances where the victim, the attacker or both have been drinking or are intoxicated. The victim of an acquaintance rape may not recognize it as a crime or consider the incident as a rape.

WHAT SHOULD YOU DO IF YOU'RE A SURVIVOR OF SEXUAL ASSAULT?

Giving in is a survival strategy; don't blame yourself! A rape threatening situation is a life threatening situation. Your only responsibility is to yourself; stay alive.

Many survivors of sexual assault don't know where to turn for help or what to do. You may be afraid or ashamed to talk to anyone or may want to act as though nothing has happened.

If you've been assaulted, get help quickly.

IF YOU ARE RAPED

- Go to a friend's house or somewhere you can get emotional support.
- Seek medical treatment. DO NOT douche, bathe, shower or change clothes before you go.
- Report the rape to the authorities (this does not mean you must proceed with prosecution). The more acquaintance rape is reported, the easier it may be to prevent.
- Seek counseling. Even if you don't report the rape or press charges, you should get counseling.

EMOTIONAL CONCERNS OF SURVIVORS

As a survivor of a violent crime, you will probably experience strong emotional reactions.

- You may feel guilty because society has conditioned you to believe you "asked for it" or you did not do enough to fight off your attacker.
- You may feel angry and take it out on those you love.
- You may feel afraid that your attacker will come back.
- You may feel ashamed of what has happened to you.
- You may feel helpless because it seems you have lost control of your life.
- You may feel unclean, even after bathing.
- You may not be able to sleep; you may have terrible nightmares.
- You may find your eating habits changing.
- You may not be able to resume your normal sexual relationships.
- You may have trouble concentrating and making decisions.
- You may cry uncontrollably.

HELPING THE SURVIVOR

Believe the survivor. People rarely make up stories about being a sexual assault victim.

- Let the survivor know you want to listen. How you listen matters more than what you say. Don't interrupt; let stalls and silences happen. Show interest; nod, maintain eye contact, repeat back. Let the victim know you care. Express sympathy ("I'm very sorry this happened to you"), empathy ("It must have been frightening for you") and concern. Acknowledge that the survivor is blameless. The survivor may have used poor judgement, but no one deserves to be raped. Avoid blaming language.
- Be patient; survivors may feel the need to talk about the assault repetitively or may not feel able to talk to you at all.
- Let the survivor control the situation and who is informed about the assault. The victim needs to regain control; encourage him or her to make as many choices as soon after the event as possible. Respect confidently when discussing the assault, use a private location. Even if you disagree, respect the survivor's right to choose the course of action; offer (but don't impose) choices.
- Realize that you will have strong feelings about the assault; seek counseling for yourself. Avoid communicating your biases and negative emotions to the survivor.

WHAT HAPPENS IF YOU CALL THE POLICE?

First they will make sure you are safe. They'll help you get to the hospital and will place you in touch with counselling providers.

A police officer will question you about what happened. Female officers and investigators are usually available if you'd prefer. This interview may take place before, while, or after you visit the hospital. Other officers will examine the place where the attack occurred to collect evidence.

You'll speak with a trained sexual assault investigator soon after the attack. This investigator will review your earlier statement and may ask very specific questions. If your attacker was a stranger, you may be asked to look at photographs of prior offenders or to help a police artist prepare a sketch of your attacker. As the investigation progresses, the police will remain in touch and keep you abreast of developments. If a suspect is located, you will be asked to confirm the identification through means that prevent the suspect from seeing you.

WHAT HAPPENS AT THE HOSPITAL?

At the hospital, you'll be given a medical examination to make sure you are all right and to collect medical evidence. This evidence will be needed if you decide to pursue prosecution and is only available immediately after the attack. If you wish, a rape response advocate is available to stay with you during the exam to provide support.

At your request, the doctor can also check for pregnancy and give medication to prevent sexually-transmitted diseases. It's important that you have a follow-up exam to ensure you don't later develop such a disease. The hospital staff can also refer you to appropriate counseling resource.

WHAT HAPPENS IF YOU CHOOSE TO PROSECUTE?

Whether to prosecute is up to you. For situations where the attacker is a student at the university, institutional disciplinary proceedings are an option in addition to or instead of the regular criminal prosecution system; again, the venue for prosecution is up to you. Ultimately you must appear in court in order to prosecute the offender. It takes courage to report and prosecute a sexual assault, but it is the only way to stop the assailant and may help you regain your sense of control.