

Equal Opportunity Policies & Hearings

Training Materials for Participants

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Breakout (Sexual Misconduct Key Terms)



Breakout Parts

For more information about these categories of possible sexual misconduct, select the applicable breakout material as you complete this section.

Remember, refer to the appropriate Policy for the full definition.

 Dating Violence Domestic Violence	 Sexual Assault	 Non-Consensual Sexual Touching
 Stalking	 Sexual Harassment	 Sexual Exploitation
		 Sexual Intimidation

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Slide Contents:

Breakout Parts:

For more information about these categories of possible sexual misconduct, select the applicable breakout material as you complete this section.

Remember, refer to the appropriate Policy for the full definition.

- Dating Violence and Domestic Violence.
- Sexual Assault.
- Stalking.
- Sexual Harassment.
- Non-Consensual Sexual Touching.
- Sexual Exploitation.
- Sexual Intimidation.

Narrator Notes:

(same as above)

POLICY ELEMENTS

Dating Violence

UH System Sexual Misconduct Policy
Appendix A

TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
Violent conduct <u>and</u>	<i>Same definition!!</i>
Social relationship of a romantic or intimate nature between the parties.	So what's the difference?
<i>*With factors such as length/type of relationship, and frequency of interaction between the parties.</i>	<i>Remember, Title IX jurisdiction depends on facts such as location and educational activities at time of incident or the complaint.</i>



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Slide Contents:

Title IX sexual misconduct: Violent conduct and Social relationship of a romantic or intimate nature between the parties and with factors such as length/type of relationship, and frequency of interaction between the parties.

Other system sexual misconduct: Same definition!!

So what's the difference? Remember, Title IX jurisdiction depends on facts such as location and educational activities at time of incident or the complaint. Diagram of the five Title IX jurisdiction categories (definition, report, United States, impact and educational program).

Narrator Notes:

Appendix A of the Sexual Misconduct Policy includes a side-by-side comparison chart of definitions of Title IX versus other forms of System Sexual Misconduct.

For Title IX Sexual Misconduct, Dating Violence means violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such relationship shall be determined based on a consideration of factors such as the length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.

System Sexual Misconduct uses the same definition but remember that it does not have the same limited jurisdiction as Title IX misconduct, so it may capture a broader range of activity.

Remember as you move through the Title IX definitions, that the jurisdiction requirements of the definition, actual knowledge (reporting), conduct in the United States, affecting a person in or attempting to participate in an educational program, and within a University program or activity.

Policy Elements: Domestic Violence

POLICY ELEMENTS

Domestic Violence

UH System Sexual Misconduct Policy
Appendix A

TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
Violent conduct <u>and</u>	<i>Same definition!!</i>
Social relationship of a romantic or intimate nature between the parties <u>and</u>	So what's the difference?
Relationships include people who: • Share a child together, • Cohabitate as spouse or intimate partner, • Are similarly situated to a spouse under state law, • Receive protection under state domestic violence laws (includes family members and roommates).	<i>Remember, Title IX jurisdiction depends on facts such as location and educational activities at time of incident or the complaint.</i>

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Slide Contents:

Title IX sexual misconduct: Violent conduct and Social relationship of a romantic or intimate nature between the parties and relationships include people who:

- Share a child together,
- Cohabitate as spouse or intimate partner,
- Are similarly situated to a spouse under state law,
- Receive protection under state domestic violence laws (includes family members and roommates).

Other system sexual misconduct: Same definition!!

So what's the difference? Remember, Title IX jurisdiction depends on facts such as location and educational activities at time of incident or the complaint.

Narrator Notes:

For Title IX Sexual Misconduct, Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim:

- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Texas; or

- 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.

System Sexual Misconduct has the same definition for domestic violence, but again without the limiting jurisdiction requirements.

Policy Elements: Sexual Assault (Part One)

POLICY ELEMENTS

Sexual Assault (Part One)

UH System Sexual Misconduct Policy
Appendix A

TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
Forcible Rape (any penetration of vagina or anus with any body part or object, or oral penetration by a sex organ of the other person, without consent)	Intercourse without consent, such as:
Forcible Assault by Object (any penetration of genital or anal opening of the person without consent by anything except the other person's genitalia).	1. Any penetration of orifice (anal, vaginal, oral) with vulva, anus, mouth, penis, finger or object,
Forcible Sodomy (oral or anal sexual intercourse without consent)	2. Other acts of oral sex or anal stimulation,
Forcible Fondling (touching of the private body parts of another person for sexual gratification, without consent). Lack of consent may be based on age as well as temporary or permanent mental incapacity	3. Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another person.

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Slide Contents:

Title IX sexual misconduct includes:

- Forcible Rape (any penetration of vagina or anus with any body part or object, or oral penetration by a sex organ of the other person, without consent).
- Forcible Assault by Object (any penetration of genital or anal opening of the person without consent by anything except the other person's genitalia).
- Forcible Sodomy (oral or anal sexual intercourse without consent).
- Forcible Fondling (touching of the private body parts of another person for sexual gratification, without consent). Lack of consent may be based on age as well as temporary or permanent mental incapacity.

Other system sexual misconduct: Intercourse without consent, such as:

1. Any penetration of orifice (anal, vaginal, oral) with vulva, anus, mouth, penis, finger or object,
2. Other acts of oral sex or anal stimulation,
3. Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another person.

Narrator Notes:

For Title IX Sexual Misconduct, Sexual Assault means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. These definitions begin with

Forcible Sex Offenses, specifically:

- Forcible Rape is 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.
- Forcible Sodomy is oral or anal sexual intercourse with another person without the consent of the victim.
- Forcible Sexual assault with an object is the penetration, no matter how slight, of the genital or anal opening of the body of another person without the consent of the victim. An object is anything used by the offender other than the offender's genitalia.
- Forcible Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

On the other hand System Sexual Misconduct defines sexual assault as Sexual intercourse that occurs without consent. Examples include, but are not limited to:

- Penetration, however slight, of an orifice (anal, vaginal, oral) with the vulva, anus, or mouth, by a penis, finger, or other object;
- Other acts of oral sex or anal stimulation; or
- Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another person.

POLICY ELEMENTS

Sexual Assault (Part Two)

UH System Sexual Misconduct Policy
Appendix A

TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
Non-Forcible sexual assault includes incest (intercourse between persons wherein their marriage is illegal) and statutory rape based on age of consent.	

A prior dating or sexual relationship is not a basis for assumption of consent for future sexual activity.

Being under the influence of drugs and/or alcohol is never a defense for not obtaining consent.

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Slide Contents:

Title IX sexual misconduct Non-Forcible sexual assault includes incest (intercourse between persons wherein their marriage is illegal) and statutory rape based on age of consent.

A prior dating or sexual relationship is not a basis for assumption of consent for future sexual activity.

Being under the influence of drugs and/or alcohol is never a defense for not obtaining consent.

Narrator Notes:

Title IX Sexual Misconduct also includes sexual assault by Non Forcible Sex Offenses, specifically:

- Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

According to the Sexual Misconduct Policy, section 5.4, "The existence of a dating relationship or a previous sexual relationship between the persons involved does not provide the basis for an assumption of consent to future sexual activity."

Also, per section 5.5, "being under the influence of drugs and/or alcohol is never a defense for not obtaining consent."

POLICY ELEMENTS Stalking UH System Sexual Misconduct Policy Appendix A	
TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
Course of conduct (two or more acts)	Course of conduct (two or more acts)
Directed at a specific person	Directed at a specific person
That would cause reasonable person to	That would cause reasonable person to
Fear for their safety or the safety of others <u>or</u> suffer substantial emotional distress	Fear for their safety or the safety of others <u>or</u> suffer substantial emotional distress.
	There is/was a romantic relationship, or the person accused desired to have a romantic or sexual relationship.

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Slide Contents:

Title IX sexual misconduct:

- Course of conduct (two or more acts)
- Directed at a specific person
- That would cause reasonable person to
- Fear for their safety or the safety of others or suffer substantial emotional distress

Other system sexual misconduct:

- Course of conduct (two or more acts)
- Directed at a specific person
- That would cause reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- There is/was a romantic relationship, or the person accused desired to have a romantic or sexual relationship.

Narrator Notes:

Title IX Sexual Misconduct Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for safety or the safety of others; or
- Suffer substantial emotional distress.

System Sexual Misconduct, on the other hand, states that Stalking, including cyber stalking, is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for their safety and/or the safety of others; or suffer substantial emotional distress.

This Policy will apply to acts of Stalking that:

- Occur between people who currently have or have had a romantic or sexual relationship; or
- Occur because of the Respondent's desire to have a romantic or sexual relationship with the Complainant

A "course of conduct" is a pattern of behavior composed of two or more acts, whether directly by a Respondent or through third parties, over a period of time, however short, that evidence a continuity of purpose.

"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

A "reasonable person" means a reasonable person in the Complainant's circumstances.

POLICY ELEMENTS

Employment Setting

Sexual Harassment

UH System Sexual Misconduct Policy
Appendix A

TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
Conduct is on the basis of sex <u>and</u>	Unwelcome sexual advance, request for sexual favor, or any other verbal or physical conduct of sexual nature if:
Conditions an aid, benefit, or service of the University	1. Term or condition of an individual's employment, either explicitly or implicitly,
on an individual's participation	2. Basis for a decision affecting the individual's employment,
in unwelcome sexual conduct.	3. Has the purpose or effect of unreasonably interfering with an individual's work performance, <u>or</u>
<i>Also referred to as quid pro quo.</i>	4. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment

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Slide Contents:

Title IX sexual misconduct:

- Conduct is on the basis of sex and
- "Conditions an aid, benefit, or service of the University "
- on an individual's participation
- in unwelcome sexual conduct.

Also referred to as quid pro quo.

Other system sexual misconduct:

Unwelcome sexual advance, request for sexual favor, or any other verbal or physical conduct of sexual nature if:

1. Term or condition of an individual's employment, either explicitly or implicitly,
2. Basis for a decision affecting the individual's employment,
3. Has the purpose or effect of unreasonably interfering with an individual's work performance, or
4. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment

Narrator Notes:

To compare the definitions of sexual harassment, we will need to split potential harassment into the employment and then to other types of academic settings. First let's consider the employment setting.

Title IX Sexual Harassment means conduct on the basis of sex with an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. This is also referred to as quid pro quo sexual harassment

System Sexual Misconduct sexual harassment in the employment setting, Sexual Harassment includes an unwelcome sexual advance, a request for sexual favor, or any other verbal or physical conduct of a sexual nature if:

- Submission to the advance, request, or conduct is made a term or condition of an individual's employment, either explicitly or implicitly;
- Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment;
- The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
- The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Policy Elements: Sexual Harassment (Other Settings)

POLICY ELEMENTS	
Sexual Harassment	
UH System Sexual Misconduct Policy Appendix A	
TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
Conduct is on the basis of sex that is	Subjecting person to unlawful severe, pervasive, or persistent treatment based on sex that is:
unwelcome <u>and</u>	1. Humiliating, abusive, or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group,
a reasonable person would find so severe, pervasive, and objectively offensive	2. An intimidating, hostile or abusive learning or living environment, or an environment that alters the conditions of learning or living; <u>or</u>
that it effectively denies a person equal access to the University's Education Program or Activity.	3. An unreasonable interference with an individual's academic performance.
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Slide Contents:

Title IX sexual misconduct:

- Conduct is on the basis of sex that is
- unwelcome and
- a reasonable person would find so severe, pervasive, and objectively offensive
- that it effectively denies a person equal access to the University's Education Program or Activity.

Other system sexual misconduct:

Subjecting person to unlawful severe, pervasive, or persistent treatment based on sex that is:

1. Humiliating, abusive, or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group,
2. An intimidating, hostile or abusive learning or living environment, or an environment that alters the conditions of learning or living; or
3. An unreasonable interference with an individual's academic performance.

Narrator Notes:

Title IX defines sexual harassment in other settings specifically education as:

- Conduct is on the basis of sex that is
- unwelcome and
- a reasonable person would find so severe, pervasive, and objectively offensive
- that it effectively denies a person equal access to the University's Education Program or Activity.

Other system sexual misconduct provides that sexual harassment in the educational setting is:

Subjecting person to unlawful severe, pervasive, or persistent treatment based on sex that is:

1. Humiliating, abusive, or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group,
2. An intimidating, hostile or abusive learning or living environment, or an environment that alters the conditions of learning or living; or
3. An unreasonable interference with an individual's academic performance.

Policy Elements: Non-Consensual Sexual Touching

POLICY ELEMENTS	
Non-Consensual Sexual Touching	
UH System Sexual Misconduct Policy Appendix A	
TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
<i>*May be covered by Sexual Assault and/or Sexual Harassment Prohibitions.</i>	A form of sexual harassment with
	any intentional touching in a sexual manner (even slight or momentary), <u>or</u>
	use of an object to touch another in a sexual manner,
	without consent.

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Slide Contents:

Title IX sexual misconduct: May be covered by Sexual Assault and/or Sexual Harassment Prohibitions.

Other system sexual misconduct:

- A form of sexual harassment with
- any intentional touching in a sexual manner (even slight or momentary), or
- use of an object to touch another in a sexual manner,
- without consent.

Narrator Notes:

The next term is non-consensual sexual touching. Title IX Sexual Misconduct does not provide further definition but it may cover non-consensual sexual touching as a form of sexual harassment or sexual assault.

UH System Sexual Misconduct prohibits a form of sexual harassment that consists of any intentional touching in a sexual manner, however slight or momentary, or the use of an object to touch another in a sexual manner without consent. Examples include, but are not limited to:

- Unwanted touching of a sexual nature; or
- Use of force or intimidation to make someone else engage in non-consensual sexual touching.

POLICY ELEMENTS

Sexual Intimidation

UH System Sexual Misconduct Policy
Appendix A

TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
<i>*May be covered by Sexual Harassment Prohibition if so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.</i>	A form of sexual harassment by threatening another with behavior of a sexual nature.

Examples:

- Indecent exposure (aka "flashing"),
- Transmitting or displaying a nude image (if unsolicited and a reasonable person would feel threatened or intimidated).

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Slide Contents:

Title IX sexual misconduct: May be covered by Sexual Harassment Prohibition if so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.

Other system sexual misconduct:

- A form of sexual harassment by
- threatening another
- with behavior of a sexual nature.

Examples:

- Indecent exposure (aka "flashing"),
- Transmitting or displaying a nude image (if unsolicited and a reasonable person would feel threatened or intimidated).

Narrator Notes:

Now let's discuss sexual intimidation. Title IX Sexual Misconduct does not provide further definition but it may cover sexual intimidation as a form of sexual harassment if it meets the standard. For instance, for students conduct that is severe, pervasive, and objectively offensive so that it effectively denies a person equal access to the University's Education Program or Activity.

UH System Sexual Misconduct prohibits sexual intimidation as a form of sexual harassment that involves threatening another with behavior of a sexual nature. Examples of this include, but are not limited to, engaging in indecent exposure

(aka "flashing"), or transmitting or displaying a nude image where the action was unsolicited and a reasonable person would feel threatened or intimidated.

POLICY ELEMENTS	
Sexual Exploitation (Part One)	
UH System Sexual Misconduct Policy Appendix A	
TITLE IX SEXUAL MISCONDUCT	OTHER SYSTEM SEXUAL MISCONDUCT
<i>*May be covered by Sexual Harassment Prohibition if so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.</i>	A form of sexual harassment by taking non-consensual or abusive sexual advantage for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and it does not otherwise constitute one of the other Sexual Misconduct offenses.

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Slide Contents:

Title IX sexual misconduct: May be covered by Sexual Harassment Prohibition if so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.

Other system sexual misconduct:

- A form of sexual harassment by taking non-consensual or abusive sexual advantage for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and
- it does not otherwise constitute one of the other Sexual Misconduct offenses.

Narrator Notes:

Title IX Sexual Misconduct does not provide further definition but it may cover sexual exploitation as a form of sexual harassment if it meets the standard of severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.

UH System Sexual Misconduct prohibits sexual exploitation as a form of sexual harassment that occurs when a party takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses.

POLICY ELEMENTS

Sexual Exploitation (Part Two)

UH System Sexual Misconduct Policy
Appendix A

TITLE IX SEXUAL MISCONDUCT

**May be covered by Sexual Harassment Prohibition if so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.*

OTHER SYSTEM SEXUAL MISCONDUCT

Examples:

- Distributing sexual images or recordings without consent, even where originally obtained with consent.
- Voyeurism or peeping activities (when there is a reasonable expectation of privacy).
- Exceeding boundaries of consent during otherwise consensual encounter.
- Prostitution or sex trafficking
- Non-consensual recording, photos or sharing intimate or sexual utterances, sounds or images electronically or by other means.

Slide Contents:

Title IX sexual misconduct: May be covered by Sexual Harassment Prohibition if so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.

Other system sexual misconduct examples:

- Distributing sexual images or recordings without consent, even where originally obtained with consent.
- Voyeurism or peeping activities (when there is a reasonable expectation of privacy).
- Exceeding boundaries of consent during otherwise consensual encounter.
- Prostitution or sex trafficking
- Non-consensual recording, photos or sharing intimate or sexual utterances, sounds or images electronically or by other means.

Narrator Notes:

UH system sexual misconduct examples for sexual exploitation may include:

(same as above)

Conclusion



Slide Contents:

Thank you, you have completed this Section.

Remember, refer to the appropriate Policy for the full definitions.

Narrator Notes:

(same as above)