

Equal Opportunity Policies & Hearings

Training Materials for Participants

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Breakout (Title IX 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

Violent conduct and

Social relationship of a romantic or intimate nature between the parties.

**With factors such as length/type of relationship, and frequency of interaction between the parties.*

Remember, Title IX jurisdiction depends on facts such as location and educational activities at time of incident or the complaint.



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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.

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, geography of United States, impact and educational program or activity).

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.

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

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).

*Note that dating relationships are covered by **Dating Violence**.

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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).

Narrator Notes:

For Title IX Sexual Misconduct, Domestic Violence includes state and local felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim. State and local law defines domestic violence as violence within Family and Household relationships such as the following

- 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.

Remember, dating relationships are still covered by the Dating Violence prohibition.

POLICY ELEMENTS

Sexual Assault (Part One)

UH System Sexual Misconduct Policy
Appendix A

TITLE IX 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)

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

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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.

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.

POLICY ELEMENTS

Sexual Assault (Part Two)

UH System Sexual Misconduct Policy
Appendix A

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.

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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
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 <u>or</u> suffer substantial emotional distress

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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

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.

POLICY ELEMENTS

Sexual Harassment

Employment Setting

UH System Sexual Misconduct Policy
Appendix A

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.

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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.

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.

POLICY ELEMENTS

Sexual Harassment

UH System Sexual Misconduct Policy
Appendix A

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.

Note that this definition is based on the 2020 Title IX Regulations.

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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.

Narrator Notes:

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

- Conduct 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.

POLICY ELEMENTS

Non-Consensual Sexual Touching

UH System Sexual Misconduct Policy
Appendix A

**TITLE IX
SEXUAL MISCONDUCT**

**May be covered by Sexual Assault and/or Sexual Harassment Prohibitions.*

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Slide Contents:

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

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.

POLICY ELEMENTS

Sexual Intimidation

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.*

Examples if also meets the criteria above:

- 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.

Examples if also meets the criteria above:

- 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.

Examples of this may include but are not limited to--when the criteria above are met. . . , 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

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.*

Examples if meets the criteria above:

- 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.

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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 examples include if criteria above are met:

- 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:

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 so that it effectively denies a person equal access to the University's Education Program or Activity. Title IX may include examples from other system sexual misconduct examples include if criteria above are met. For instance

- 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.

