

Equal Opportunity Policies & Hearings

Training Materials for Participants

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Breakout (UH System 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

OTHER SYSTEM 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.*

Slide Contents:

Dating violence under the UH System includes 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.

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 the UH System, 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.

POLICY ELEMENTS

Domestic Violence

UH System Sexual Misconduct Policy
Appendix A

OTHER SYSTEM 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:

UH System defines domestic violence as 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:

UH System defines domestic violence as violence committed by a current or former spouse or intimate partner of the victim, which may include:

- 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.

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

POLICY ELEMENTS

Sexual Assault

UH System Sexual Misconduct Policy
Appendix A

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.

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:

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.

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:

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, 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.

According to the 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

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.

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Slide Contents:

Other System sexual misconduct stalking definition:

- 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:

System Sexual Misconduct defines Stalking, including cyber stalking, as 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

Sexual Harassment

Employment Setting

UH System Sexual Misconduct Policy
Appendix A

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

Number (1) above may also be referred to as quid pro quo.

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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

Number (1) on the list may also be 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.

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.

The first example on the list may also be referred to as quid pro quo sexual harassment.

POLICY ELEMENTS

Sexual Harassment

Other Settings

UH System Sexual Misconduct Policy
Appendix A

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.

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Other settings for sexual harassment under System sexual misconduct require:

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:

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

UH System Sexual Misconduct Policy
Appendix A

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.

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System sexual misconduct defines Non-Consensual Sexual Touching as:

- 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.

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

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).

Slide Contents:

Other system sexual misconduct includes sexual intimidation as:

- 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.

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

UH System Sexual Misconduct Policy
Appendix A

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.

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.

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Other system sexual misconduct defines sexual exploitation as:

- 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.

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 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.

UH system sexual misconduct examples for sexual exploitation may include:

- 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.