

# Definitions of Prohibited Conduct

## Quid Pro Quo Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such conduct is made implicitly or explicitly a term or condition of instruction, employment, or participation in any University activity or benefit;
- Submission to or rejection of these behaviors by an individual is used as a basis for evaluation in making academic or personnel decisions;

To reach the threshold for a claim under Title IX, the person conditioning the provision of the aid, benefit, or service must be an employee.

## Hostile Environment Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal, electronic or physical conduct of a sexual nature when such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance; i.e. it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both a subjective and an objective standard.

Gender-based harassment is a form of discrimination that includes verbal, written, or physical behavior, directed at someone, or against a particular group, because of that person's or group's sex, gender identity, actual or perceived sexual orientation, or based on gender stereotypes, when that behavior is unwelcome and has the purpose or effect of substantially interfering with the individual's work or educational performance by creating an intimidating, hostile, or demeaning environment for employment, education or associate activities of the University.

Such conduct does not need to be directed at or to a specific individual in order to constitute sexual harassment but may consist of generalized unwelcome and inappropriate behaviors or communications based on sex, gender identity, actual or perceived sexual orientation, or gender stereotypes. Determination of whether alleged conduct constitutes sexual harassment requires consideration of all the circumstances, including the context in which the alleged incidents occurred.

To reach the threshold for a claim under Title IX, the conduct must be determined to be unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity as well as meet the required jurisdictional elements.

The Title IX Coordinator(s) based on the constellation of facts and circumstances surrounding the report or Complaint will determine an evaluation of when an offense meets the definition for Title IX.

## Non-Consensual Sexual Penetration

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.

# Non-Consensual Sexual Contact

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 his/her age or because of his/her temporary or permanent mental incapacity. Private body parts for purposes of this Policy are breast, buttocks, groin, and mouth.

## Incest

For purposes of this Policy, incest means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Texas, this includes sexual contact between persons who are brothers and sisters, parents, and children, including stepparents, stepchildren, and adopted persons, as well as aunts/uncles with nieces/nephews and between grandparents and grandchildren.

## Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent, which in Texas is 17 years of age.

## Domestic Violence

A felony or misdemeanor crime 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 jurisdiction in which the crime of violence occurred;
- 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.

According to Section 16 of title 18 of the United States Code, the term "crime of violence" means

an offense under Texas State law that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

any other offense that is a felony in Texas and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Domestic violence, as defined by Title IX, is considered relationship violence and must be "on the basis of sex." For purposes of this Policy, Domestic Violence does not include acts that meet the definition of domestic violence under Texas laws that are based solely on cohabitation (e.g. roommates) or family relationship (e.g. parent/child). While non-relationship violence would not be addressed using this policy, it could still be counted for purposes of Clery Act reporting and may be addressed under other University policies or grievance procedures.

## 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 reporting Party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

## Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

For the purposes of this definition—

Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third Parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

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

To reach the threshold for a claim under Title IX, the stalking behavior must be determined to be based on sex. Non-sex-based stalking complaints will be resolved using this policy's definitions but under the Non-Title IX Resolution Procedures by status of the Respondent as Student or Employee.

## Sexual Exploitation

Any act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute another offense as defined above. Examples may include acts such as recording, photographing, streaming or otherwise transmitting, viewing or distributing intimate or sexual images or sexual information without the knowledge and consent of all Parties involved; voyeurism (i.e., spying on others who are in intimate or sexual situations), knowingly transmitting a sexually transmitted infection to another, or facilitation the sexual harm/abuse of another person.

## Retaliation

Retaliation is any attempt to seek retribution against an individual or group of individuals involved in making a good faith report, filing a Complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy. Retaliation can take many forms, including abuse or violence, threats, coercion, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic or University-controlled living environment of an individual or if they hinder or prevent the individual from effectively carrying out their University responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this policy.

Allegations of Retaliation will proceed under the non-Title IX process.