

Texas State University System Sexual Misconduct Policy Definitions

Complainant refers to the person making a complaint of sexual misconduct.

Consent is an informed and freely and affirmatively communicated willingness to participate in a particular sexual activity. Consent can be expressed either by words or by clear and unambiguous actions, as long as those words or actions create mutually understandable permission regarding the conditions of each instance of sexual activity. It is the responsibility of the person who wants to engage in the sexual activity to ensure that s/he has the consent of the other to engage in each instance of sexual activity.

Dating Violence is 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 a relationship shall be determined by the Victim with consideration of the following factors:
 - the length of the relationship;
 - the type of relationship; and
 - the frequency of interaction between the persons involved in the relationship

Family (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 or roommate, 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 State of Texas.

Preponderance of the Evidence means the greater weight and degree of credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. Preponderance of the evidence is satisfied if the action is more likely to have occurred than not.

Respondent refers to the person accused of sexual misconduct and shall be referred to herein as either Respondent, Alleged Perpetrator, Accused, or Perpetrator, and these terms may be used interchangeably.

Responsible Employee refers to a campus employee who has the authority to redress sexual misconduct; who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or whom a student could reasonably believe has this authority or duty. Responsible employees shall include all administrators, faculty, staff, and student workers.

Retaliation means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

Sexual Assault means any form of *non-consensual* sexual activity representing a continuum of conduct from forcible rape to nonphysical forms of pressure designed to compel individuals to engage in sexual activity against their will. Examples of sexual assault include, but are not limited to, the following non-consensual sexual activity:

- sexual intercourse (vaginal or anal);
- oral sex;
- rape or attempted rape;
- penetration of an orifice (anal, vaginal, oral) with the penis, finger or other object;
- unwanted touching of a sexual nature;
- use of coercion, manipulation or force to make someone else engage in sexual touching, including touching of breasts, chest, buttocks and genitalia;
- engaging in sexual activity with a person who is unable to provide consent; or
- knowingly transmitting a sexually-transmitted disease to another.

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples can include, but are not limited to, the following behaviors:

- prostituting another;
- non-consensual electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images without the knowledge and consent of all parties involved;
- voyeurism (spying on others who are in intimate or sexual situations);
- going beyond the boundaries of consent (such as letting friends hide in a closet to watch another friend having consensual sex); or
- distributing intimate or sexual information about another person without that person's consent.

Sexual Harassment is any unwelcome verbal, nonverbal, written, electronic or physical behavior of a sexual nature directed at someone, or against a particular group, because of that person's or group's sex, or based on gender stereotypes, severe or pervasive, and where it meets either of the following criteria:

- Submission, consent, or rejection of the behavior is believed to carry consequences for the individual's education, employment, on-campus living environment or participation in a University affiliated activity. Examples of this type of sexual harassment include, but are not limited to:
 - pressuring another to engage in sexual behavior for some educational or employment benefit; making a real or perceived threat that rejecting sexual behavior will result in a negative tangible employment or academic consequence.
- The behavior has the purpose or effect of substantially interfering with another's work or educational performance by creating an intimidating or hostile environment for employment, education, on campus living or participation in a University affiliated activity. Examples of this type of sexual harassment can include, but are not limited to:
 - persistent unwelcome efforts to develop a romantic or sexual relationship;
 - unwelcome commentary about an individual's body or sexual activities;
 - unwanted sexual attention;
 - repeatedly engaging in sexually-oriented conversations, comments or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature in the workplace, office or classroom, even if such conduct is not objected to by those present; or
 - gratuitous use of sexually-oriented materials not directly related to the subject matter of a class, course or meeting even if not objected to by those present.

Sexual Intimidation includes but is not limited to:

- threatening another with a non-consensual sex act;
- stalking or cyber-stalking; or
- engaging in indecent exposure

Sexual Misconduct is a broad term encompassing a range of nonconsensual sexual activity or unwelcome behavior of a sexual nature. The term includes but is not limited to sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. All such acts are forms of Sexual Misconduct.

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

- fear for his or her safety or the safety of others; or
- suffer substantial emotional distress

Student refers to any person who has been accepted for admission, or who is currently or was previously enrolled in the University on either a full-time or part-time basis.

Third party refers to any person who is not a current student or employee of the University, including but not limited to vendors and invited and uninvited visitors.

Third-Party Reporting refers to the submission of a complaint of sexual misconduct by a person on behalf of another person.

Title IX Coordinator is the person who has been designated by each University to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators. Each University will identify and provide complete contact information for their Title IX Coordinator and all Deputy Coordinators in various locations, including but not limited to the University website; the student's handbook; the Dean of Student's Office; and Campus Police or Security.

Title IX Investigator refers to the person who conducts the Title IX investigation.

University Affiliated Program or Activity refers to any program or activity, on or off campus, that is initiated, aided, authorized or supervised by the University or by an officially-recognized organization of, or within, the University.

University Premises are buildings or grounds owned, leased, operated, controlled or supervised by the University including property that is within or reasonably contiguous to the premises owned by the University but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor.)