

Sexual Misconduct Policy Glossary/Definitions

Accused Party - A person who has been accused of committing an act of sexual harassment, sexual assault, dating violence, and/or stalking by a victim/alleged victim.

Cross reference with similar words: **respondent**, **perpetrator**.

Complainant - A person who experienced, self-reported, or made a complaint of sexual harassment, sexual assault, dating violence, and/or stalking.

Cross reference with similar words: **victim**, **alleged victim**, **survivor** - an individual who is a victim of sexual harassment, sexual assault, dating violence, stalking, and/or other sex offense, regardless of whether a report or conviction is made in the incident.

Course and Scope of Employment - An employee performing duties in the furtherance of the institution's interests.

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.

- 1) 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.
- 2) For the purposes of this definition—
 - a. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b. Dating violence does not include acts covered under the definition of domestic violence.

Disabled Person / Differently Abled Person - A person who: 1) has a physical or mental impairment which substantially limits one or more major life activities; 2) has a "record of" such impairment; or 3) is regarded as having such an impairment.

Employee - An employee of a postsecondary institution of higher education that does not include a student enrolled at the institution. Pursuant to Title IX, a Responsible Employee is a university employee who has the authority to take action against an alleged violation of the sexual misconduct policy, who has been given the duty of reporting said allegations to the Title IX Coordinator, or whom an individual could reasonably believe has this authority or duty.

Equitable Opportunity/Access - Postsecondary institutions of higher education must ensure equal access for disabled employees and students. Institutions should ensure that websites, policies, and forms are accessible to disabled employees and students as described in Texas Administrative Code, Section 206.70.

Person - For the purposes of this training, a "person" refers to a student or employee of the postsecondary institution of higher education (defined below).

Postsecondary Institution of Higher Education - An institution of higher education or a private or independent institution of higher education, as those terms are defined by Texas Educational Code, Section 61.003.

Reporter - A person who reports incidents of sexual harassment, sexual assault, dating violence, and stalking to a postsecondary institution of higher education.

Responsible Employee - Pursuant to Title IX, a Responsible Employee is an employee of a postsecondary institution of higher education who has the authority to take action against an alleged violation of the sexual misconduct policy, who has been given the duty of reporting said allegations to the Title IX Coordinator, or whom an individual could reasonably believe has this authority or duty.

Responsible Employees may include:

- All supervisors, university officials, and administrators
- All coaches and other athletic staff that interact directly with students
- All employees who work in offices that interact directly with students
- Professors, adjuncts, lecturers, and all other faculty members who instruct students
- Academic advisors
- Graduate research assistants
- Residential staff, including resident assistants

Sexual Assault - An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting program.

- 1) *Rape* - 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.
- 2) *Fondling* - 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.
- 3) *Incest* - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 4) *Statutory Rape* - Sexual intercourse with a person who is under the statutory age of consent.

Sexual Harassment - Unwelcome, sex-based verbal or physical conduct that:

- 1) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
- 2) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary institution of higher education.

Sexual Harassment, for the purposes of these rules, may include acts that postsecondary institutions of higher education define as Non-consensual Sexual Contact, Sexual Exploitation, or Sexual Intimidation.

“Sexual Misconduct” Policy - A policy which encompasses a range of non-consensual sexual activity or unwelcome behavior of a sexual nature, including sexual harassment, sexual assault, dating violence, and stalking.

Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for the person’s safety or the safety of others; or 2) suffer substantial emotional distress.

Course of conduct - Two or more acts, including, but not limited to, acts in 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 - A reasonable person under similar circumstances and with similar identities to the victim.

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

Student - Any enrolled student as defined by the postsecondary institution of higher education’s student handbook or equivalent.

Substantial Compliance - A postsecondary institution of higher education has made a good faith effort to comply with the requirements under these rules, provided that the deficiencies identified by the Texas Higher Education Coordinating Board can be readily corrected.

Procedural Definitions/Glossary

Disciplinary Process versus Hearing Process - The process in which the postsecondary institution of higher education determines the sanction following an investigation that results in a finding of a violation of the sexual misconduct policy. Depending on the postsecondary institution of higher education’s policy, this may include a hearing, but is not required.

Disposition - The final result, including any sanction(s), under the postsecondary institution of higher education’s disciplinary process.