

Sanctioning Scenarios for Sexual Misconduct

Sean Flammer, Associate General Counsel
Krista Anderson, Systemwide Title IX Coordinator

Fall 2023



1

Agenda

- Introduction
- Hypothetical Scenarios & Discussion



2

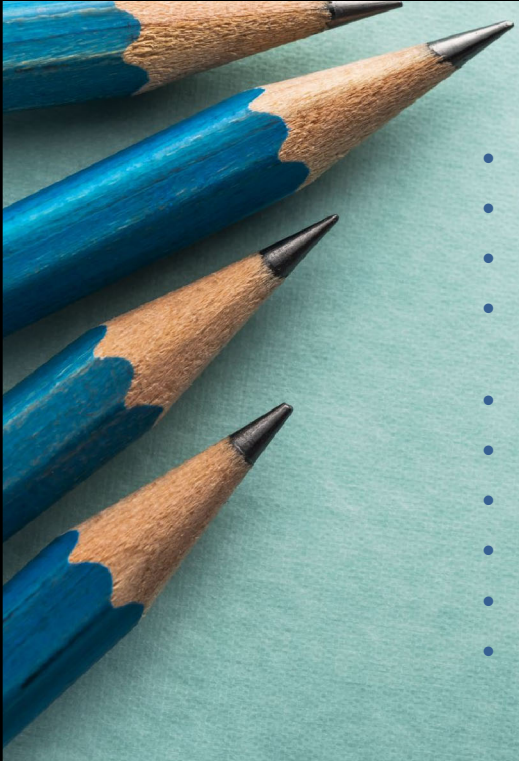
2

Why Attend This Training?



Notes about this Training

- **Sanctions are only appropriate if there is a finding.** Supportive measures may still be available.
- **Policy Differences:** For the purposes of this training, the UTS Model Policy for Sexual Misconduct will be the primary policy reference. UT Institutional policies may have some differences.
- **Participation:** Please participate! More discussion and dialogue will enhance the session greatly!

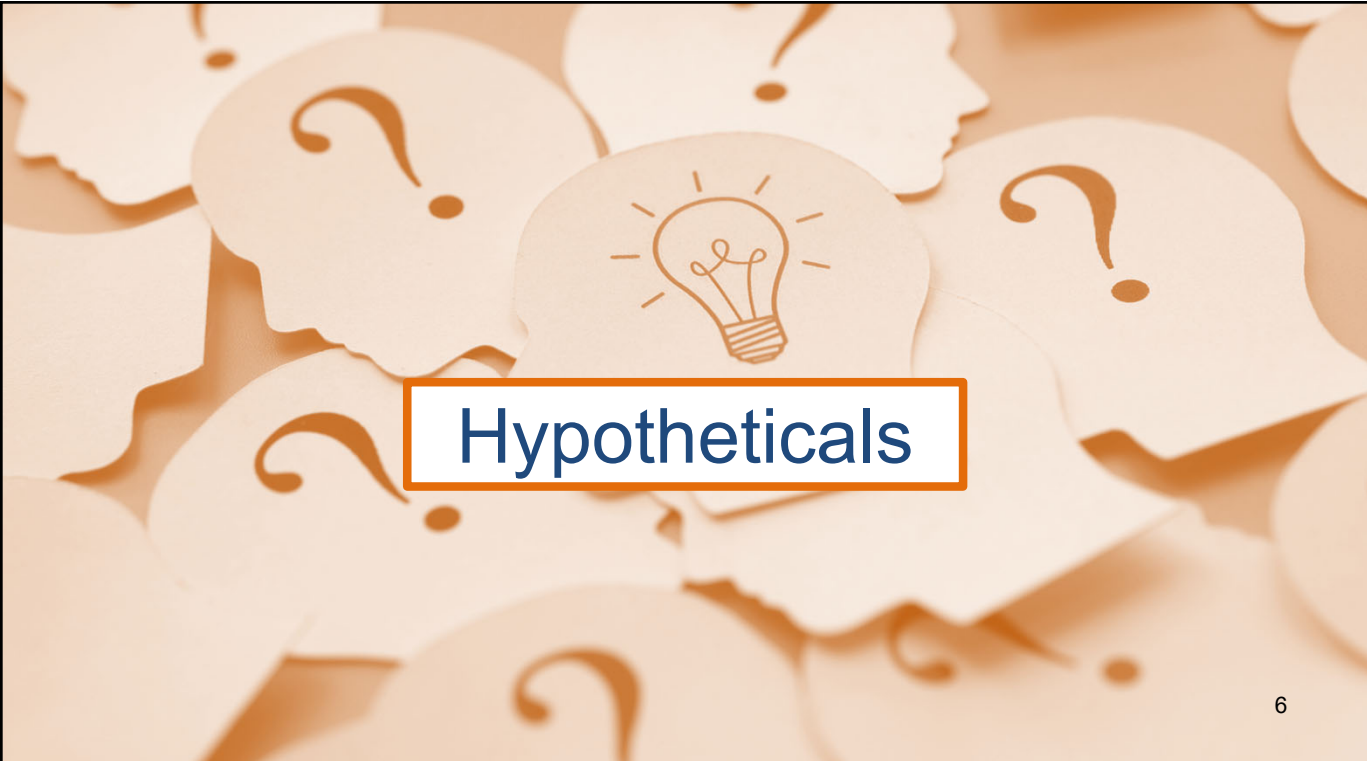


Possible Considerations

- Nature of policy violation
- Severity and seriousness of the conduct
- Intent of the conduct
- Impact on Complainant and campus community
- Cumulative violations
- Respondent's prior policy violations
- Complainant's request for type of sanctions
- Respondent's acceptance of responsibility
- Other mitigating or aggravating factors
- Conditions for Respondent's return

5

5



Hypotheticals

6

6

Hypothetical Scenario 1

Complainant and Respondent are both students in their first semester and have been hanging out. One night, Respondent visits Complainant and they talk in Complainant's dorm room for a couple hours while drinking liquor.

Complainant invites Respondent to sleep in Complainant's bed. After getting ready for bed, they get into the bed and kiss for a few moments. Complainant mentions an early morning class and they wish each other a "goodnight."

Complainant falls asleep and wakes up sometime later with Respondent touching Complainant's genital area.

Respondent is found responsible for "Sexual Assault: Fondling"



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

7

7

Hypothetical Scenario 2

Complainant is a student who frequently studies in the Science Building after dinner every night because it is quiet and there are not many people around. Respondent is an employee on the janitorial staff who cleans the Science Building. So far this academic year, Complainant and Respondent see each other 2-4 times per week at the Science Building and have made small talk on many occasions. Their conversations sometimes last 2 or 3 minutes but sometimes they've lasted as long as 10 or 15 minutes.

One evening in March, after Complainant told Respondent it was Complainant's birthday, Respondent came back with a cupcake Respondent bought at the Student Union next to the Science Building and gave it to Complainant. In April, Respondent commented that Complainant looked "great" and chuckled that Complainant had "better watch out" from all the romantic attention Complainant was sure to receive. The next week, Complainant and Respondent saw each other in the hallway and Complainant proudly told Respondent that Complainant had just been accepted for an internship for which Complainant had applied and previously mentioned. Respondent hugged Complainant upon hearing this news.

Complainant filed a Title IX complaint because complainant felt uncomfortable with the cupcake, the comment about Complainant's looks, and the hug. Complainant states the Respondent's actions lately have been "creepy," and Complainant is scared of being in the Science Building with Respondent at night. Complainant no longer studies in the Science Building because of this fear. Respondent states that Respondent views Complainant as a grandchild and states nothing was sexual about the interactions and Respondent was just being "friendly."

Respondent has been found responsible for "Other Inappropriate Sexual Misconduct."



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

8

8

Hypothetical Scenario 3

Complainant and Respondent had a sexual relationship for three months. Complainant broke up with Respondent.

Complainant recently learned that Respondent had—without Complainant’s knowledge—video recorded at least one of their sexual encounters and has shared this video with at least two other students.

Respondent was found responsible for “Sexual Exploitation.”



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

9

9

Hypothetical Scenario 4

Complainant and Respondent had a sexual relationship for three months. Complainant broke up with Respondent.

Complainant recently learned that Respondent had—without Complainant’s knowledge—video recorded at least one of their sexual encounters and has shared this video with at least two other students.

Respondent was found responsible for “Sexual Exploitation.”

Respondent has a previous violation for the same conduct and served a one-year suspension and one-year probationary period that has expired.



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

10

10

Hypothetical Scenario 5

Complainant and Respondent met at a fraternity party. Complainant was “drunk” and dancing with friends when Respondent approached Complainant on the dance floor and handed Complainant another drink. Complainant was unsteady and had glassy eyes. Complainant consumed the beverage while talking with Respondent. Complainant spilled some of the drink, but Respondent got Complainant another one. Complainant later began feeling “off” and suddenly tired. Respondent took Complainant home and forcibly raped Complainant. Complainant said “no” and “stop” but was losing consciousness during the intercourse and “wanted to push [Respondent] away but didn’t have the energy.” Complainant filed a Formal Complaint and included an allegation that Respondent drugged Complainant.

Respondent was found responsible for “Sexual Assault: Rape.” The hearing officer believes that Respondent did drug the Complainant.



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

11

11

Hypothetical Scenario 6

Complainant and Respondent dated for 3 years; it was the first serious relationship for either student. Both have the same friend group.

Recently, Complainant broke up with Respondent and asked Respondent to not attend social events with the friend group when Complainant is there. Respondent is having a difficult time with the break-up and feels socially isolated. But most importantly, Respondent wants the relationship to continue. Respondent has repeatedly come to Complainant’s dorm at night, crying outside the door and begging Complainant to “take [them] back.” Complainant has told Respondent to stop contacting Complainant and does not answer the door when Respondent comes, but Respondent has persisted at least 3 times.

Complainant files the Formal Complaint and a No-Contact Order is issued.



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

12

12

Hypothetical Scenario 6 (Cont)

After the No-Contact Order was issued, the parties had no further contact.

At the hearing, 6 months later, Respondent states that Respondent has “moved on” but acknowledges that Respondent was in a “bad state mentally” at that time and apologizes to Complainant. Respondent states that Complainant was Respondent’s first love and Respondent states that Respondent didn’t have the skills to deal with heartbreak at that time. Respondent states that Respondent should have “let it go and moved on much earlier.”

At the hearing, Complainant states that Complainant wants Respondent to “know that [Respondent] can’t act that way in the future” but “does not want to ruin [Respondent’s] life.”

A hearing officer has found Respondent responsible for “Stalking.”



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

13

13

Hypothetical Scenario 7

Respondent thinks Complainant is very attractive. Respondent has left notes on Complainant’s car telling Complainant how attractive Complainant is and some of these notes have stated the different sex acts Respondent would like to perform with Complainant. These notes have caused Complainant a lot of fear and distress.

One night, when driving home, Complainant noticed a car following Complainant. Complainant called the police, who pulled over Respondent. During the encounter with the police, Respondent admitted to following Complainant “*to make sure Complainant made it home safe,*” admitted to writing the notes, admitted Respondent “*loved*” Complainant, and admitted to following Complainant previously. The police found flowers, a gun, condoms, duct tape, and handcuffs in the trunk of Respondent’s car.

A hearing officer found Respondent responsible for “Stalking.”



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

14

14

Hypothetical Scenario 8

Respondent is a new adjunct faculty member. This is Respondent's first professional job after graduate school. Complainant is a student in Respondent's class.

Respondent will often make jokes in class that Complainant finds offensive. For example, on a Monday during class, Respondent said Respondent's *"knees hurt from the weekend"* but laughed and said, *"It's not from what you think"* (implying the knees hurt from performing sex acts while on Respondent's knees)— *"I had a really long run."* Respondent has also made several self-deprecating jokes about Respondent's body/appearance such as *"I need to work on my love handles."*

The faculty member is found responsible for "Other Inappropriate Sexual Misconduct."



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

15

15

Hypothetical Scenario 9

Complainant and Respondent are students in a dating relationship. Respondent can be seen on a video recording on campus slapping Complainant in the face. Complainant states that they were *"just playing."*

On another occasion, the police were called to their home when a neighbor heard screaming and "people shouting obscenities." Complainant can be seen in police body-cam footage bleeding from the face and crying. Bruises are also visible on Complainant's neck and arms. Complainant states that the blood was caused by Complainant tripping over something in the house and the bruises are from playing rugby the day before.

The Title IX Coordinator filed the Formal Complaint. The Complainant stated a desire that the Respondent not get into any trouble. After the initial interview, the Complainant stopped participating.

Neither party attended the hearing. It is known that the two are still involved in a romantic relationship. The Respondent is found responsible for "Dating Violence."



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

16

16

Hypothetical Scenario 10

Complainant and Respondent meet at a party. Complainant had only a couple drinks while Respondent drank heavily at the party.

Complainant and Respondent went to Respondent's apartment and Respondent began pressuring Complainant to have sex. According to Complainant, Respondent became verbally aggressive and physically forced Complainant to have sex. Respondent has no memory of this because of Respondent's heavy alcohol consumption. Respondent apologizes at the hearing and states, "It wasn't me that did it. It was the alcohol."

Respondent was found responsible for "Sexual Assault: Rape."



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

17

17

Hypothetical Scenario 11

Complainant and Respondent are both students. One night they were at Complainant's apartment, and they began kissing. Complainant kissed Respondent first. Respondent reciprocated the kiss and began hugging Complainant, moving Respondent's hands on Complainant's back. Complainant did the same. This continued for a moment before Respondent moved Respondent's hand to Complainant's breasts, over Complainant's clothes. Complainant pushed Respondent's hand away.

They continued kissing for a few more minutes and Complainant began kissing Respondent's neck. Respondent tried to touch Complainant's breasts again. Again, Complainant moved Respondent's hands away while they continued kissing. They kissed for a few more seconds and then Complainant told Respondent Complainant had to study.

The next day, Complainant told a friend about the encounter, who told Complainant that Complainant had been sexually assaulted. Complainant had previously not characterized the event as a sexual assault, but she now understood that she was the victim of a sexual assault and filed a Formal Complaint.

Respondent has been found responsible for "Sexual Assault: Fondling."



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

18

18

Hypothetical Scenario 12

Complainant and Respondent are both students. Using Complainant's public social media accounts, Respondent captured multiple images of Complainant's face and clothed body. Combined with AI and other technology, Respondent created a "deepfake" pornographic video purportedly showing a naked Complainant engaged in sexual intercourse. Respondent shared the video with two friends. Complainant learned of this, was "horrified" and "disturbed," and filed a Formal Complaint. Respondent said it was no different than drawing a picture of what Complainant might look like naked and there is nothing wrong with doing so.

Respondent has been found responsible for "Sexual Exploitation."



19

19

Q & A



20

Contact Information

Krista Anderson	Sean Flammer
Systemwide Title IX Coordinator	Associate General Counsel
Office of Systemwide Compliance UT System (Austin, TX)	Office of General Counsel UT System (Austin, TX)
Phone: 512-664-9050	Phone: 512-579-5106
Email: kranderson@utsystem.edu	Email: sflammer@utsystem.edu



THE UNIVERSITY of TEXAS SYSTEM
THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

21