

TEXAS TECH UNIVERSITY

Sexual Misconduct & Title IX Violations

Sanction Matrix

2017-2018



Preface regarding this Sanction Matrix

It is important to note that this sanction grid only applies once a finding of responsibility has occurred. Accordingly, the examples of mitigating circumstances provided are not intended to downplay or undermine the fact that the Respondent, in every case where this applies, has still nevertheless violated the applicable policy(s). Different instances of a violation of the same student conduct policy rarely look exactly the same, and thus require detailed analysis and consideration when sanctioning. This analysis must include contemplation of certain case-specific circumstances that either make a violation more or less egregious than other instances of the same violation.

Additionally, prior violation(s) of the Code of Student Conduct will always be considered as aggravating circumstance(s) that could potentially increase sanction(s) for a current policy violation. The *number* of prior cases and the *egregiousness* of those past violations should be carefully considered, and prior violations for the same offense (e.g., student currently being sanctioned for non-consensual sexual touching has a prior violation for the same offense) should be viewed as particularly exacerbating.

Conduct Violation - Sexual Harassment

Definition from Code of Conduct

Unwelcome verbal, written, or physical conduct of a sexual nature that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with the student's educational experience or creates a hostile educational environment.

Examples

- Sexual teasing, jokes, remarks, questions
- Sexual looks and gestures;
- Sexual innuendos or stories;
- Communicating in a demeaning manner with sexual overtones;
- Inappropriate comments about dress or physical appearance;
- Gifts, letters, calls, e-mails, or materials of a sexual nature;
- Sexual favoritism;
- Pressure for dates or sexual favors;
- Inappropriate discussion of private sexual behavior;
- Sexually explicit visual material (calendars, posters, cards, software, Internet materials);

Range of Appropriate Sanctions



Mitigating Circumstance Examples

- Prior instances where Respondent's advances were welcome.
- Evidence of mistaken or unintentional behavior (e.g., unintentional viewing of phone/computer screen, mistaken identity).
- The Respondent accepted responsibility, showed remorse, demonstrated thoughtful understanding of policy and refined perspective, and/or articulated a plan for modified future behavior.

Aggravating Circumstance Examples

- The Complainant and Respondent have a current No-Contact Order in place.
- The Respondent has a history of prior sexual misconduct violations.
- The Respondent's behavior resulted in severe and prolonged humiliation.
- The Respondent threatened academic or social consequences for refusal of requests or non-cooperation.
- The Respondent's outright or brazen refusal to acknowledge culpability or accept responsibility for clear violation of policy.

Conduct Violation - Sexual Exploitation

Definition from Code of Conduct

Taking non-consensual or abusive sexual advantage of another for the benefit of oneself or a third party.

Examples

- Photography or video recording of another person in a sexual, intimate, or private act without that person's full knowledge or consent;
- Purposeful distribution or dissemination of sexual or intimate images or recordings of another person without that person's full knowledge or consent;
- Sexual voyeurism;
- Inducing another to expose one's genitals or private areas;
- Prostituting another student;

- Engaging in sexual activity without disclosing to another party of a known STD

Range of Appropriate Sanctions



Mitigating Circumstance Examples

- Evidence of accidental dissemination.
- The dissemination of sexual or intimate images/recordings was small in scope; exposure was limited to only a handful of people.
- Respondent accepted responsibility, showed remorse, demonstrated thoughtful understanding of policy and refined perspective, and/or articulated a plan for modified future behavior.

Aggravating Circumstance Examples

- The explicitness of the sexual or intimate images/recordings and the resulting humiliation and/or embarrassment suffered by Complainant.
- The dissemination of sexual or intimate images/recordings was extensive, pervasive, and exposed Complainant to a large number of people.
- The extent to which Complainant can be identified in the sexual or intimate images/recordings.
- Respondent threatened to disseminate sexual or intimate images/recordings prior to actual dissemination.
- Respondent disseminated sexual or intimate images/recordings as an act of retaliation.
- Number of times the voyeurism or distribution of sexual or intimate images/recordings occurred.
- The Respondent's outright or brazen refusal to acknowledge culpability or accept responsibility for clear violation of policy.

Conduct Violation - Public Indecency

Definition from Code of Conduct

Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency.

Examples

- Exposing one's genitals or private area(s);
- Public urination or defecation;
- Public sex acts.

Range of Appropriate Sanctions



Mitigating Circumstance Examples

- Evidence of mistaken or unintentional behavior (e.g., unintentional exposure of one's genitals or private areas).
- Evidence of reasonable attempts to create privacy and/or lessen public exposure.
- Situational circumstances that lessen the public exposure (e.g., tinted windows in a dark, isolated corner of parking lot).
- Respondent accepted responsibility, showed remorse, demonstrated thoughtful understanding of policy and refined perspective, and/or articulated a plan for modified future behavior.
- The explicitness of the sexual act exposed (less egregious).

Aggravating Circumstance Examples

- The explicitness of the sexual act exposed (more egregious).
- The extensiveness or egregiousness of the public urination/defecation (e.g., behind a bush vs. the middle of the library).
- Exposure to minors.
- The Respondent's outright or brazen refusal to acknowledge culpability or accept responsibility for clear violation of policy.
- When exposure is directed at minors and language that is consistent with mental capacity

Conduct Violation - Non-Consensual Sexual Contact

Definition from Code of Conduct

Intentional sexual touching of another's private areas without consent.

Examples

- Touch: however slight / with any part of one's body / with any object.
- Private Areas: butt, breasts, mouth, genitals, groin area, or other bodily orifice.

Range of Appropriate Sanctions



Mitigating Circumstance Examples

- Prior instances where Respondent's sexual touching was welcome.
- Evidence of mistaken identity of complainant.
- The brevity of the touch.
- Respondent accepted responsibility, showed remorse, demonstrated thoughtful understanding of policy and refined perspective, and/or articulated a plan for modified future behavior.
- The extensiveness or invasiveness of the touch (including whether the touching occurred over or underneath clothing).

Aggravating Circumstance Examples

- The extensiveness or invasiveness of the touch (including whether the touching occurred over or underneath clothing).
- Evidence of respondent's refusal to desist when asked or when clearly communicated via other forms of communication that the behavior is unwelcome.
- The Respondent has a history of prior sexual misconduct violations, such that an instance of non-consensual sexual contact is evidence of escalation in behavior..
- The Respondent's outright or brazen refusal to acknowledge culpability or accept responsibility for clear violation of policy.

Conduct Violation - Non-Consensual Sexual Intercourse

Definition from Code of Conduct

Sexual penetration or intercourse, without consent.
(note: intercourse is inherently intentional)

Examples

- Penetration, however slight / with any part of one's body / with any object.
(note: includes anal, oral, or vaginal penetration)

Range of Appropriate Sanctions



Mitigating Circumstance Examples

- Respondent accepted responsibility, showed remorse, demonstrated thoughtful understanding of policy and refined perspective, and/or articulated a plan for modified future behavior.

Aggravating Circumstance Examples

- The aggressiveness or violent nature of the Respondent's sexual behavior.
- Evidence of respondent's refusal to desist when asked or when consent was revoked.
- Respondent's use of a weapon or restraints.
- Evidence that Respondent used drugs or alcohol to incapacitate Complainant.
- Evidence that Respondent's behavior was predatory.
- The Respondent knew he or she had an STD at the time of the intercourse.
- The Respondent has a history of prior sexual misconduct violations.
- The Respondent's outright or brazen refusal to acknowledge culpability or accept responsibility for clear violation of policy.
- Use of physical force or a completed battery.
- Non-consensual gang or group sexual intercourse.

Conduct Violation - Stalking

Definition from Code of Conduct

Behavior which includes, but is not limited to, knowingly and repeatedly engaging in conduct that the individual knows or reasonably should know the other person will regard as unwelcome and would cause a reasonable person to be fearful or suffer substantial emotional distress.

Examples

- Following or conducting surveillance of the person being stalked
- Repeated, unsolicited contact including phone calls, letters, emails, texts, and/or gifts
- Repeated, unsolicited visits to domicile, business, or classes (when not a fellow enrolled student)
- Repeated, unsolicited contact or attempts at contact via social media

Range of Appropriate Sanctions



Mitigating Circumstance Examples

- Evidence that Respondent may not have reasonably known their conduct was regarded as unwelcome
- Respondent accepted responsibility, showed remorse, demonstrated thoughtful understanding of policy and refined perspective, and/or articulated a plan for modified future behavior.

Aggravating Circumstance Examples

- Evidence of extensiveness, invasiveness, aggressiveness or violent nature of the Respondent's conduct.
- Evidence of respondent's refusal to desist when asked.
- The Respondent's outright or brazen refusal to acknowledge culpability or accept responsibility for clear violation of policy

Conduct Violation - Intimate Partner / Relationship Violence

Definition from Code of Conduct

Violence or abuse, verbal or physical, by a person in an intimate relationship with another.

Examples

- **Verbal Abuse:** name-calling, badgering, mocking, humiliating, shaming, or criticizing
- **Physical Abuse:** throwing objects, pushing, shoving, hair-pulling, scratching, hitting, kicking, use of weapons, threatening use of weapons, using force to prevent their partner from leaving
- **Intimidation:** displaying weapons, abusing pets, destroying property, or using looks, actions, gestures, and a tone of voice to indicate a threat of violence
- **Isolation:** controlling a victim's movements and communication with others, using jealousy and the victim's desire to be loved to manipulate the victim into submission
- **Neglect:** ignoring, abandoning, refusing intimacy, withholding affection as punishment

Range of Appropriate Sanctions



Mitigating Circumstance Examples

- Respondent accepted responsibility, showed remorse, demonstrated thoughtful understanding of policy and refined perspective, and/or articulated a plan for modified future behavior.

Aggravating Circumstance Examples

- The severity of the abuse.
- The duration and pervasiveness of the abuse.
- The Respondent's outright or brazen refusal to acknowledge culpability or accept responsibility for clear violation of policy.