



TEXAS TECH UNIVERSITY

Office of the President

Office for Student Civil Rights
& Sexual Misconduct™

*Sexual Misconduct & Title IX
Violations*

**Student Sanction Matrix
2020-2021**

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 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.

SEXUAL HARASSMENT

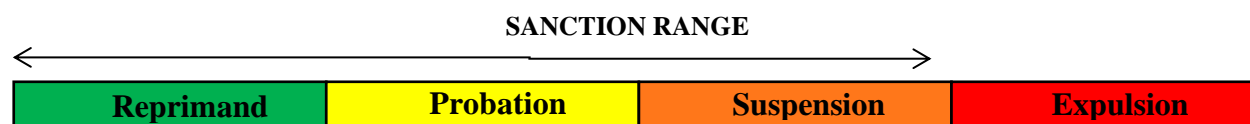
Definition from Code of Conduct

Title IX

Unwelcome sex-based verbal, written, or physical conduct when: (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education; (2) Submission to or rejection of such conduct is used as a basis for decisions affecting employment or education; or (3) Such conduct has the purpose or effect of interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive working or educational environment. To constitute an intimidating, hostile, or offensive working or educational environment the, the complained conduct must be 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.

Non-Title IX

Unwelcome sex-based verbal, written, or physical conduct when: (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education; (2) Submission to or rejection of such conduct is used as a basis for decisions affecting employment or education; or (3) Such conduct has the purpose or effect of interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive working or educational environment. To constitute an intimidating, hostile, or offensive working or educational environment, the complained of conduct must be either severe, persistent, or pervasive.



- Potential Secondary Sanction(s):
 - Sexual Misconduct Training (RISE)
 - Reflective Essay
 - Counseling Intake
 - No Contact Order
 - Re-Aclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Reprimand \$25
 - Probation \$50
 - Suspension \$75

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.

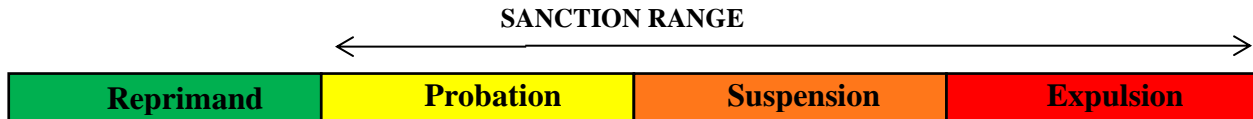
Aggravating Circumstance Examples

- 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.

SEXUAL EXPLOITATION

Non-Title IX Definition from Code of Conduct

Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party.



- Potential Secondary Sanction(s):
 - Sexual Misconduct Training (RISE)
 - Reflective Essay
 - Counseling Intake
 - No Contact Order
 - Financial restitution
 - Re-Acclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Probation \$50
 - Suspension \$75
 - Expulsion \$100

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.

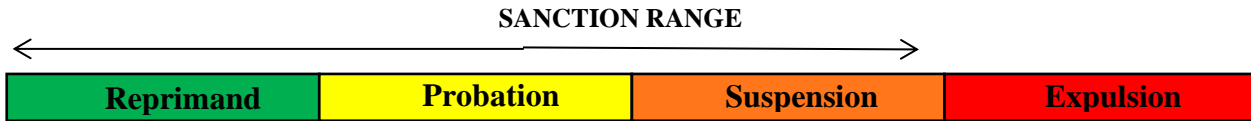
Aggravating Circumstance Examples

- 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.

PUBLIC INDECENCY

Non-Title IX 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



Expulsion for this violation would be limited to something that involves minors or someone lacking capacity to consent, i.e. exposing oneself at the Child Development Research Center

- Potential Secondary Sanction(s):
 - Restriction from spaces/events on campus
 - Time limited based on egregiousness of behavior
 - i.e. Streaking at an athletic event, temporarily restricted to attend
 - Sexual Misconduct Training (RISE)
 - Reflective Essay
 - Counseling Intake
 - No Contact Order
 - Financial restitution
 - Re-Aclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Reprimand \$25
 - Probation \$50
 - Suspension \$75

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.

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.

NON-CONSENSUAL SEXUAL CONTACT

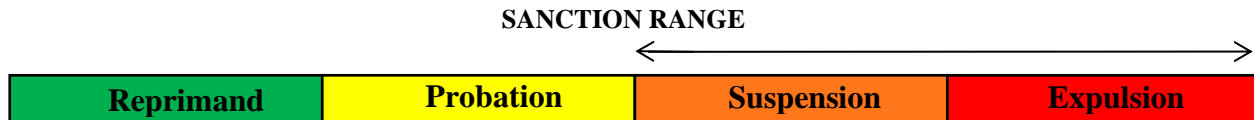
Definition from Code of Conduct

Title IX

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 or physical incapacity.

Non-Title IX

Intentional sexual touching, however slight and with any object or part of one's body, of another's private areas without consent.



Probation for this violation would be limited to circumstances that involve accidental/incidental touching **OR** when a complainant specifically outlines a desire to pursue this sanction

- Potential Secondary Sanction(s):
 - Restriction from spaces/events on campus
 - Time limited based on egregiousness of behavior
 - Sexual Misconduct Training (RISE)
 - Reflective Essay
 - Counseling Intake
 - No Contact Order
 - Re-Acclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Suspension \$75
 - Expulsion \$100

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.

Non-Consensual Sexual Intercourse

Definition from Code of Conduct

Title IX: Sexual Assault

Rape (Except Statutory Rape): The carnal knowledge of a person, 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 or physical incapacity.

Sodomy: Oral or anal sexual intercourse with another person, 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 or physical incapacity.

Sexual Assault with An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without 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 or physical incapacity.

Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Non-Title IX

Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal. This can include intentional removal of a condom or other protective measure during intercourse without the consent of the partner.

SANCTION RANGE



- Potential Secondary Sanction(s):
 - Restriction from spaces/events on campus
 - Time limited based on egregiousness of behavior
 - Sexual Misconduct Training (RISE)
 - Reflective Essay
 - Counseling Intake
 - No Contact Order
 - Re-Acclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Suspension \$75
 - Expulsion \$100

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.

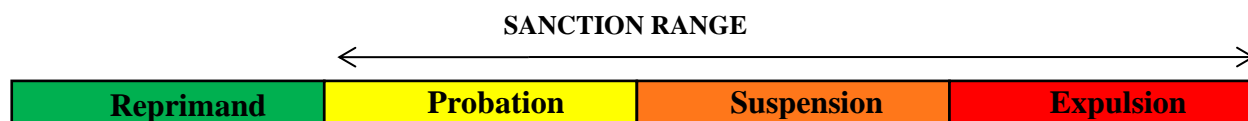
Aggravating Circumstance Examples

- 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.

Stalking

Title IX and Non-Title IX Definition from Code of Conduct:

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 would cause that person to suffer substantial emotional distress. A "course of conduct" means two or more acts in which a person 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. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling



- Potential Secondary Sanction(s):
 - Sexual Misconduct Training (RISE)
 - Reflective Essay
 - Counseling Intake
 - No Contact Order
 - Re-Acclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Probation \$50
 - Suspension \$75
 - Expulsion \$100

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

Intimate Partner Violence

Definition from Code of Conduct

Title IX

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relations, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: 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 cohabitation 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 laws of the jurisdiction, 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 jurisdiction.

Non-Title IX

Dating Violence: Abuse or violence, or a threat of abuse or violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the person's involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.

Domestic or Family Violence: Abuse or violence committed by a (1) current or former spouse or intimate partner of the Complainant, (2) person with whom the Complainant shares a child in common, (3) person who is cohabitating (or has cohabited) with the Complainant as a spouse or intimate partner, (4) person similarly situated to a spouse of the Complainant under state/local law, or (5) any other person against an adult or youth who is protected by that person's acts under the state/local domestic or family violence laws.

If verbal abuse is alleged, it must be sufficiently severe, persistent, or pervasive that it adversely affects the Complainant's education or creates an intimidating, hostile, abusive or offensive educational environment which interferes with the student's ability to realize the intended benefits of the University's resources and opportunities.

SANCTION RANGE



- Potential Secondary Sanction(s):
 - Relationship Violence Training (RISE)
 - Reflective Essay
 - Counseling Intake

- No Contact Order
- Financial Restitution (when appropriate)
- Re-Acclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Suspension \$75
 - Expulsion \$100

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.

Retaliatory Discrimination or Harassment/Discriminatory Harassment

Non-Title Definition from Code of Conduct

Retaliatory Discrimination or Harassment: Any intentional, adverse action taken by an individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant [or supporter of a participant] in a conduct process, civil rights grievance proceeding, or other protected activity.

Discriminatory Harassment: Conduct based on a student's sex, race, national origin, religion, age, disability, sexual orientation, gender, or other protected categories, classes, or characteristics that is sufficiently severe, persistent, or pervasive that it adversely affects the victim's education or creates an intimidating, hostile, abusive or offensive educational environment which interferes with the student's ability to realize the intended benefits of the University's resources and opportunities.

SANCTION RANGE



- Potential Secondary Sanction(s):
 - Anti-Discrimination Training
 - Reflective Essay
 - Counseling Intake
 - No Contact Order
 - Financial Restitution (when appropriate)
 - Re-Acclimation Meeting with Title IX Coordinator
 - Required for all suspensions
- Administrative Fee
 - Reprimand \$25
 - Probation \$50
 - Suspension \$75
 - Expulsion \$100

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

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

Suspension/Expulsion Guidelines

No two cases are the same, so it stands to reason that no two sanctions may be identical. However, consistency is critical. Mitigating and aggravating circumstances are considered in each case, and guide where the length of suspension falls on the continuum of possibilities, or the appropriateness of expulsion. Guidelines as suggested below, HOWEVER, it is important to remember:

- Suspension temporarily removes a student from the TTU community, but they are given *an opportunity* to return. In order to do so, they must satisfy all of the terms of their sanction.
- Gender identity/sexual orientation of either party (or parties) should not factor in to the sanction.
 - For example, if you ask yourself, would this suspension be longer for a male respondent than female, and the answer is yes, consult with other members of the Panel. Sanctions for the same case should be of equal severity, regardless of participant identities.
- Consider the impact on the Complainant(s):
 - When will the Respondent return from suspension? Do they have overlapping classes/majors? Will they graduate together?
 - How long will the Complainant be at the University?
- Once a finding has been determined, sanctioning *must* reflect that the Respondent was determined to be responsible, and the outcome should fit accordingly. This is even true if you personally did not “vote” for a responsible finding. Keep in mind, a Hearing Officer/Panel has found this person responsible for a serious violation of the Code of Student Conduct, and the sanction should be in line with that.
 - There should be a rationale for the length of suspension/expulsion from the university, the same way there would be a rationale for a responsible/not finding during the hearing.
- With regard to probation and suspension, “Semester” refers to a long semester (Fall, Spring). Two summer sessions would be the equivalent of one long semesters.

Suspension Lengths

Suspension should be determined and framed as when a student is eligible to reapply for return to TTU. For example, the panel may include the following language in the decision letter: “(Student name) is eligible to reapply for admission for Fall 2021.”

1. One Semester/ Less than one Academic Year

- a. Except in rare cases, this sanction is not appropriate for non-consensual sexual intercourse or partner/dating violence.
 - i. For dating violence, this may be an appropriate sanction where physical or sexual abuse is not present
- b. Lower Level Incidents
 - i. For example, Public Indecency- public urination at an athletic event
- c. Respondent has expressed remorse, accepted responsibility
- d. Complainant specifically requests a shorter suspension
 - i. For example- Respondent articulates they believed they had consent for sex, but during the course of the hearing realizes the Complainant’s perspective that they were too incapacitated to actually give consent. Respondent is remorseful and can articulate what they will do differently to gain consent in the future.

2. One Academic Year

- a. This should be the *minimum* starting point for Non-Consensual Sexual Intercourse
- b. Mitigating Factors exist in the responsible finding

- i. i.e. A student incorrectly ascertained level of incapacitation of the Complainant; however aggravating factors were *not* present
- c. Lack of aggravating factors
 - i. Particularly- no prior history/lack of pattern
 - ii. No weapons/force used; did not incapacitate the Complainant to facilitate the assault
- d. Respondent accepts responsibility, shows remorse
- e. Complainant would likely have limited contact with Respondent at the conclusion of the sanction

3. Two-Three Academic Years

- a. Most appropriate for violations under non-consensual intercourse or relationship violence
- b. Other types violations that are on the severe end of the range
- c. Lack of mitigating factors
- d. Aggravating factors exist
 - i. Additional Code Violations in the same case
 - ii. Violating a No Contact Order
 - iii. Causing physical injuries, humiliation, etc.
 - iv. Committing the offense as an act of retaliation
- e. Previous history/pattern
 - i. Similar violations (i.e., not Academic Integrity, etc.)
 - ii. Evidence of escalation in behavior
- f. Outright refusal to accept responsibility for a clear policy violation
- g. Respondent and Complainant would otherwise have a burdensome amount of contact (i.e.- same year in the same major/program)

4. Four Academic Years (Twelve Semesters)

- a. An important question at this point is “why not expulsion?” If you/the Panel feel a four year suspension is warranted, what is it about the case that prevents it from being an expulsion?
- b. Similar circumstances as above, and additionally:
 - i. Panel can articulate why it is appropriate for Respondent to serve an additional year suspension
 - 1. i.e. takes into account multiple Conduct violations in the same case
 - 2. Respondent and Complainant would otherwise have a burdensome amount of contact (i.e.- same year in the same major/program)
- c. Aggravating factors exist
- d. Previous history/pattern
 - i. Similar violations (i.e., not Academic Integrity, etc.)
 - ii. Evidence of escalation in behavior
- e. Outright refusal to accept responsibility for a clear policy violation

5. Expulsion (Permanent Removal from the TTU Community)

A note on the use of Expulsion: while not intended to be all encompassing, as a general rule, expulsion may be an option to consider when any or all of the following circumstances are present:

- Behavior directed at minors or persons under the age of 18
- The presence or use of a weapon used to intimidate or cause bodily injury
- Significant bodily injury requiring medical intervention to correct the injuries
- Prior assignment of Suspension for a violation of policy

Additional factors may include but are not limited to:

- a. This sanction is reserved for someone who no longer deserves the benefit of membership in the TTU community- someone who cannot attend the university without putting other community members at risk
- b. Evidence of predatory behavior
- c. Used alcohol/drugs, force, weapon, etc. to (intentionally) incapacitate the Complainant
- d. Severity/egregiousness of behavior
- e. Previous history/pattern of behavior
 - i. Particularly if student has already completed sanctions for another Sexual Misconduct violation