



System Ethics & Compliance Office

## THE TEXAS A&M UNIVERSITY SYSTEM

### MODEL SANCTIONING MATRIX FOR SEXUAL VIOLENCE AND SEXUAL HARASSMENT VIOLATIONS BY STUDENTS IN THE TEXAS A&M UNIVERSITY SYSTEM

#### Introduction

When a student is found in violation of misconduct related to sexual harassment, sexual assault, relationship violence, domestic violence, sexual exploitation, and stalking, the following information should be utilized to formulate appropriate sanctions.

Sanctioning is not to be considered by a designated administrator or member of an adjudicatory board until a finding of responsibility has been rendered. Once a finding has been established, the administrator or adjudicatory board then considers various sanctions under the following guidelines.

Please note that this guide is a model for member universities to employ and/or adapt as outlined in The Texas A&M University System Regulation *08.01.01*. It is not intended to be utilized without appropriate training from the System Ethics and Compliance Office (SECO) or other qualified professionals.

#### Sanctioning Considerations

1. Nature of the offense
  - a. What are the facts? What happened? What effect has this conduct had on the reporting party?
  - b. What additional harm or damage could have occurred?
  - c. Does the respondent represent a foreseeable risk of harm to others?
2. Prior disciplinary history of respondent
  - a. Does the respondent have a disciplinary record?
  - b. Is it for similar offenses?
  - c. Is there evidence of escalating behavior?
3. Aggravating factors
  - a. What additional factors argue for a more severe sanction? Aggravating factors include, but are not limited to: failure to cooperate with the investigation, providing false information, wrongful personal conduct during the course of the

investigations and adjudicatory process (such as violating no-contact orders), use or threat of use of a weapon, and a refusal to accept any culpability even when provided with overwhelming evidence of responsibility.

4. Mitigating factors

- a. What additional factors argue for a less severe sanction? Mitigating factors include, but are not limited to: relationship history of the parties, evidence of unintentional behavior, demonstrations of responsibility for the conduct in question, demonstration of remorse for one's behavior, commitment to reforming behavior in the future, adherence to directives, cooperation with the investigation, and reduced risk of recurrence or harm to the broader community.

Note that these factors are not necessarily treated equally, and not all will be relevant in each case. For example, the nature of the offense may be deemed so severe that it may outweigh other factors, or a student with a lengthy disciplinary record may be removed from a university for what might otherwise be deemed a relatively minor offense. Designated administrators and adjudicatory boards must carefully scrutinize what factors are most compelling when determining sanctions.

The questions each designated administrator or adjudicatory board must ultimately answer include:

1. Do we believe the student respondent represents a threat to the complainant and/or other members of the campus community?
2. What do we want the student respondent to take away from this experience?
3. What learning outcomes do we want to relay to the student respondent?
4. How will the sanctions we impose address any potential threat to campus community and appropriate learning outcomes?

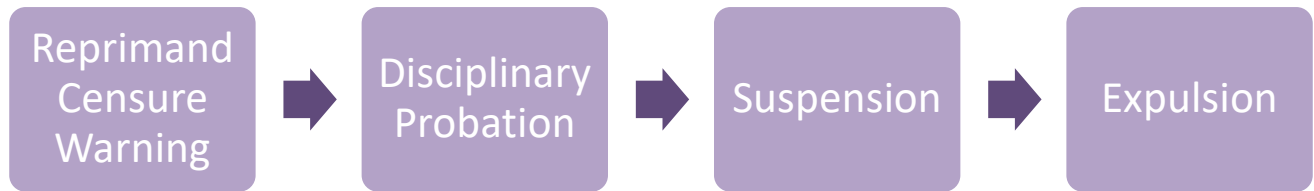
As a university with a primary mission of educating its community, the creation of learning outcomes from the answers to these questions should drive the imposition of both inactive and active sanctions.

## **Inactive and Active Sanctions**

### *Inactive Sanctions*

Inactive sanctions are official, written university responses to misconduct that generally do not require any action by the respondent. These sanctions (with the exception of suspension and expulsion) generally do not explicitly serve as teaching tools, but instead provide a baseline for sanctions for any future conduct violations.

Examples include:



### *Active Sanctions*

Active sanctions are generally those designed to achieve learning outcomes by the student respondent by providing them with information and/or experiences that help them deepen their understanding of university expectations and cause them to reflect on the implications of their own actions.

Examples of active sanctions include:

- Assessment, treatment, and/or education for alcohol and other drug issues
- Workshops (e.g., healthy relationships, conflict management, anger management)
- Counseling assessment
- Interviews and educational essays
- Guided reflection papers

Active sanctions in Title IX cases should generally not place the student respondent in a setting with either the complaining party or other vulnerable parties (such as a shelter or support group).

Additionally, other active sanctions can solidify interim measures and/or deter further contact between the parties, such as contact restrictions and restrictions from specific campus areas or activities.

In general, there should be (except in cases of permanent expulsion) a pairing of inactive and active sanctions that address all desired learning outcomes. All active sanctions should have written reflection components assigned to them that are then included in the student's conduct record.

It is important to emphasize that disciplinary suspensions should be conditional on, and reinstatement only allowed upon, successful completion of all assigned active sanctions.

### **Minimum Sanctions**

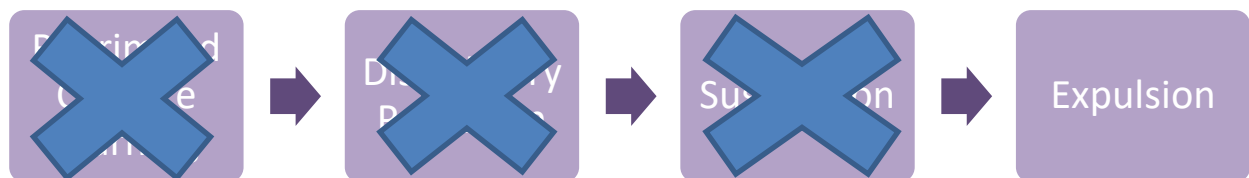
The following sanctions are deemed to be appropriate minimum sanctions:

## **SEX-BASED VIOLENCE AND/OR NONCONSENSUAL PENETRATION (WITH PREDATION<sup>1</sup>)**

### Examples

- Intimate partner violence (with a pattern of previous violence or predation)
- Penetration (with predation), no matter how slight, of a person's anus or vagina with any bodily part or object
- Performing oral sex on another person without consent or forcing a person to perform oral sex

### Inactive Sanctions (as required by 08.01.01)



### Active Sanctions

Restriction from campus grounds and/or events

## **SEX-BASED VIOLENCE AND/OR NONCONSENSUAL PENETRATION (WITHOUT PREDATION)**

### Examples

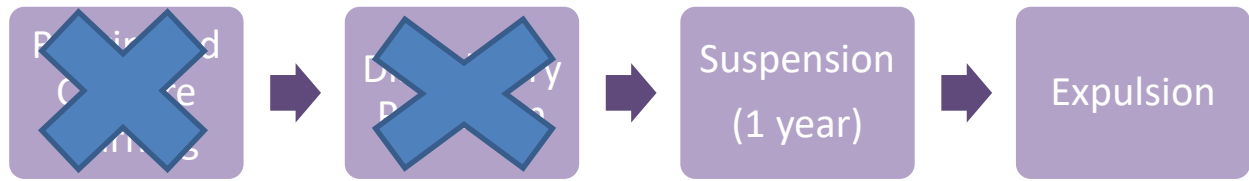
- Intimate partner violence (without a pattern of previous violence or predation)
- Penetration (with predation), no matter how slight, of a person's anus or vagina with any bodily part or object
- Performing oral sex on another person without consent or forcing a person to perform oral sex

### Inactive Sanctions (as required by 08.01.01 and in absence of significant mitigating factors)

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<sup>1</sup>Predation is an intent to engage in these acts prior to their occurrence demonstrating premeditation, planning or forethought, and is reflected in communicated intent (physical, verbal, visual, or written), threats directed at a party, attempts to incapacitate a party, attempts to isolate a party, utilizing violence, or other actions that a reasonable person would construe as a pre-meditation to engage in actions that are unwanted by/against the recipient. Committing any of these actions with an individual under the age of consent is also considered predatory.

## Sanctioning Matrix (Students)



### Active Sanctions

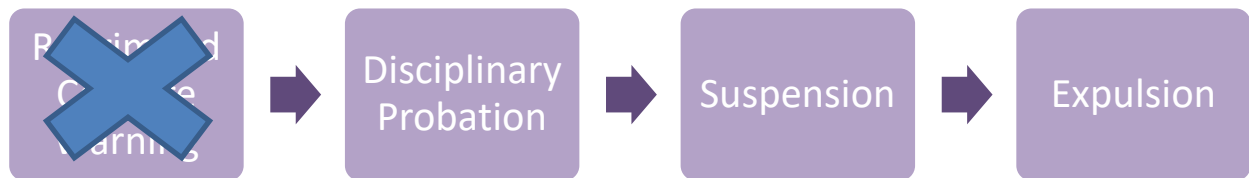
As appropriate for desired learning outcomes (based on investigative findings)

## **NONCONSENSUAL SEXUAL CONTACT**

### Examples

- Intentional touching (no matter how slight), without consent, of another person's breasts, thighs, buttocks, genitals, groin; touching another area if the act of touching is sexual in nature; or knowingly touching a person with one's own genitals, breasts, or buttocks. Touching may be with any part of one's body and/or any object.

### Inactive Sanctions



### Active Sanctions

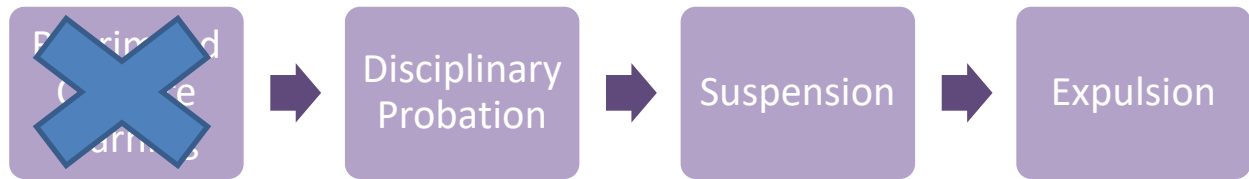
As appropriate for desired learning outcomes (based on investigative findings)

## **SEXUAL EXPLOITATION**

### Examples

- Secretly video-taping and/or broadcasting sexual activity
- Purposeful sharing of sexually explicit images, video, or recorded sounds of another person without that person's full knowledge and consent
- Nonconsensual voyeurism
- Invasion of sexual privacy
- Indecent exposure
- Knowingly transmitting or exposing someone to a sexually transmitted disease without consent

### Inactive Sanctions



### Active Sanctions

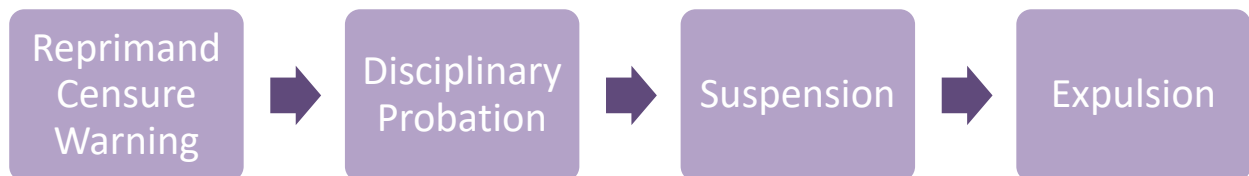
As appropriate for desired learning outcomes (based on investigative findings)

## **STALKING**

### Examples

- Following or conducting surveillance of another person
- Repeated and unsolicited contact (e.g., phone calls, text messages, social media posts and messages, emails, and gifts)
- Repeated and unsolicited visits to residence, business, or classes when having no legitimate and reasonable purpose for the visit other than to make contact with the person

### Inactive Sanctions



### Active Sanctions

As appropriate for desired learning outcomes (based on investigative findings)

## **SEXUAL HARASSMENT**

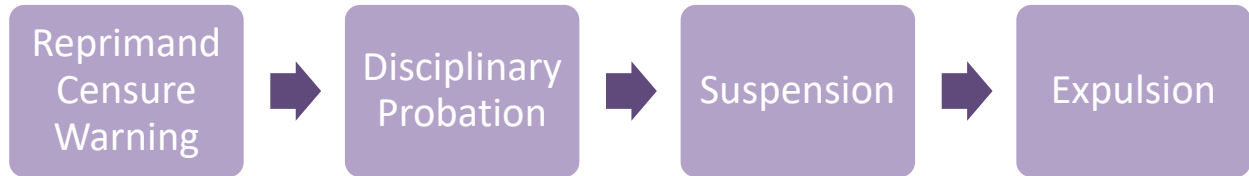
### Examples

- Unwelcome sexual advances, requests for sexual favors or other verbal, nonverbal or physical conduct of a sexual nature constitute sexual harassment when this conduct is so severe, persistent or pervasive that it explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work or educational performance, or creates an intimidating or hostile work, educational, or campus living environment. These may include:
  - Sexual jokes, questions, remarks, and teasing
  - Sexual gestures
  - Inappropriate comments on appearance (dress and/or body parts)
  - Unwelcome gifts of a sexual nature

Sanctioning Matrix (Students)

- Attempting to coerce, threaten, or intimidate another into dates and/or sexual acts
- Sexually explicit visual or audio material outside of one's own private residence that is considered inappropriate to the environment and not reasonably attached to academic pursuits for which a student is enrolled

Inactive Sanctions



Active Sanctions

As appropriate for desired learning outcomes (based on investigative findings)