

Sexual Misconduct Prevention & Response Tools

Krista Anderson, Systemwide Title IX Coordinator

Fall 2021



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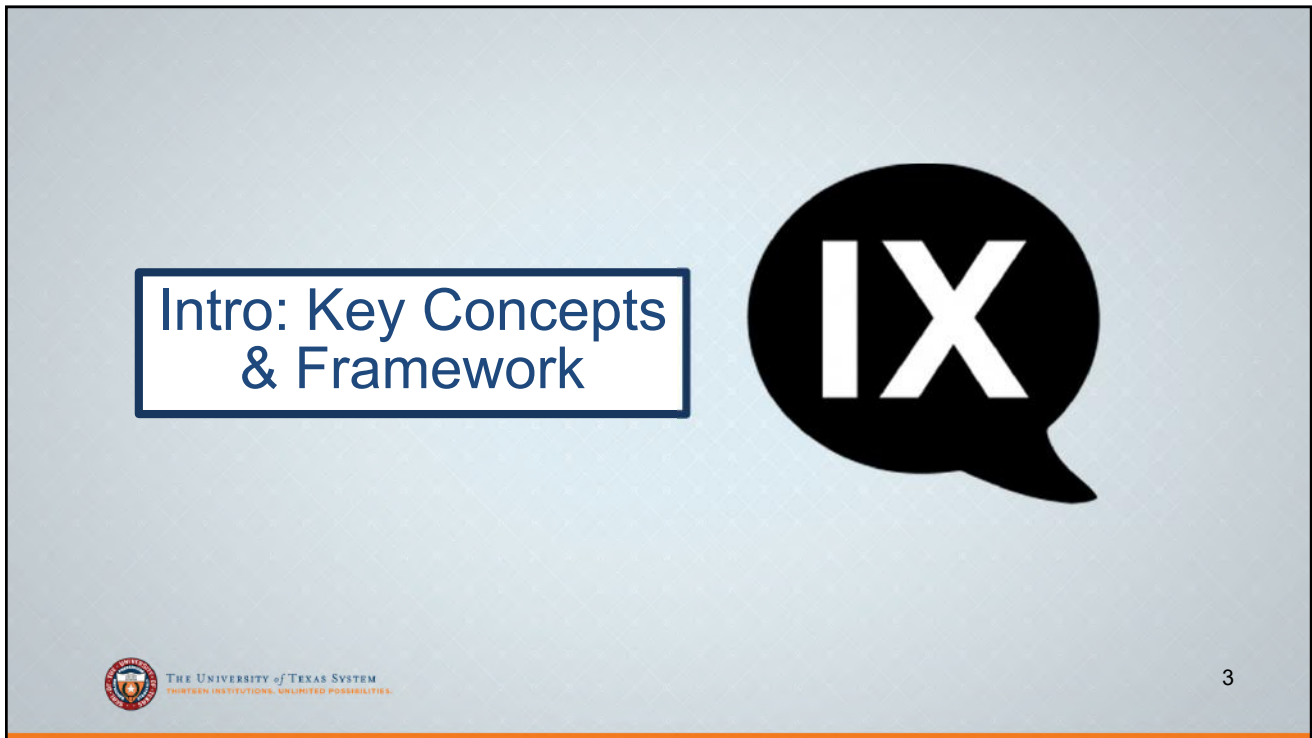
Agenda

1. Title IX Intro
2. Primary Prevention
3. Problematic Behavior
4. Boundaries
5. Response & Intervention Tools
 - Identify/Address
 - Report
 - Support
6. Additional Interventions/Remedies
 - Supportive Measures
 - Support Services & Resources
 - Snapshot at Formal & Informal Grievance Processes
7. Q & A





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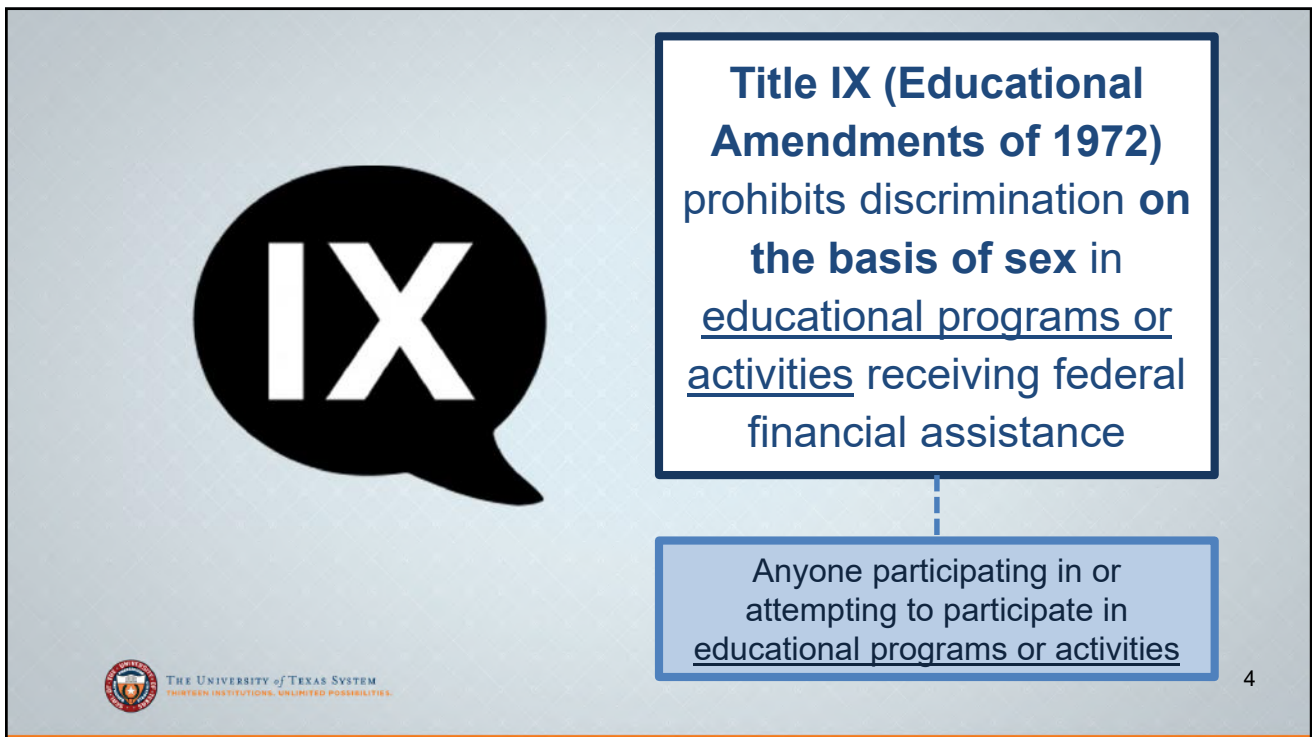
Intro: Key Concepts & Framework



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Title IX (Educational Amendments of 1972) prohibits discrimination **on the basis of sex** in educational programs or activities receiving federal financial assistance

Anyone participating in or attempting to participate in educational programs or activities

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“Education program or activity” under Title IX

Includes locations, events, or circumstances over which the institution exercises **substantial control** over both the respondent and the context in which the alleged sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the institution.

- **Example** of a “building owned or controlled by a student organization”: **Fraternity or sorority house** that is occupied by students of the organization, and the student organization is a recognized organization with the institution.



Source: Title IX Regulations (2020)

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Title IX

Sex Discrimination
Sexual Harassment
Retaliation



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Definition of "Sex Discrimination"

Occurs when an individual is treated less favorably on the basis of that person's sex (including gender), which may also include on the basis of sexual orientation, gender identity, or expression, pregnancy or pregnancy-related condition, or a sex stereotype.

Sexual harassment, as defined in the Model Policy, is a form of sex discrimination.



Source:

UT System Model Policy for Sexual Misconduct (2021)

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Distinctions...

Sexual Harassment

Employee
Quid Pro Quo

Severe
Pervasive
Obj. Offensive

Sexual Assault
Dating Violence
Domestic Violence
Stalking

VS.

Non-Sexual Harassment
Ex. Other Inappropriate Sexual Conduct



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Definition of “Sexual Harassment” under Title IX

Conduct on the basis of sex that satisfies one or more of the following:

1. An **employee** of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual’s participation in unwelcome sexual conduct (Quid Pro Quo);
2. Unwelcome conduct determined by a reasonable person to be **so severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the institution’s education program or activity; or
3. **“Sexual assault,” “dating violence,” “domestic violence,” or “stalking”** as defined under Clery/VAWA.



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Source: Title IX Regulations (2020)

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#2 Element Examples

- **“Severe”**: Physically threatening or humiliating; effects of the alleged conduct to a reasonable person (using a “reasonable person” standard)
- **“Pervasive”**: Frequency, duration of the alleged conduct
- **“Objectively offensive”**: To a reasonable person (using a “reasonable person” standard)
- **“Reasonable person” standard**: An objective test to denote a hypothetical person who exercises average care, skill, and judgment in conduct under similar circumstances as a comparative standard.
- **“Effectively denies...equal access”**: Totality of the circumstances

For example, the degree of the alleged conduct’s interference with the CP or effects in an educational setting, type of alleged conduct, frequency and duration of the conduct, knowingly unwelcome in nature

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Definition of “Other Inappropriate Sexual Conduct”

Conduct on the basis of sex that does not meet the definition of “sexual harassment” (under the Model Policy), but is

1. Verbal conduct (including through electronic means), unwanted statements of a sexual nature intentionally stated to a person or group of people, that are objectively offensive to a reasonable person and also so **severe or pervasive** that it created a Hostile Environment, as defined in the Model Policy.
2. Physical conduct...



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Source:

UT System Model Policy for Sexual Misconduct (2021)

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Definition of “Other Inappropriate Sexual Conduct” Cont.

Possible Examples (depending on facts):

- Unwelcome sexual advances (including explicit or implicit proposition(s) of sexual contact or activity);
- Requests for sexual favors (including overt or subtle pressure);
- Gratuitous comments about an individual’s sexual activities or speculation about an individual’s sexual experiences;
- Gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
- Persistent, unwanted sexual or romantic attention;
- Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials;
- Deliberate, repeated humiliation or intimidation;
- Sexual exploitation;
- Unwelcome intentional touching of a sexual nature; or
- Deliberate physical interference with or restriction of movement.



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Source:

UT System Model Policy for Sexual Misconduct (2021)

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Definition of “Retaliation”

Any **adverse action** (including, but is not limited to, intimidation, threats, coercion, harassment, or discrimination) taken against someone because the individual has made a report or filed a Formal Complaint; or who has supported or provided information in connection with a report or a Formal Complaint; participated or refused to participate in a Grievance Process under this Policy; or engaged in other legally protected activities.

Note: Any person who retaliates against (a) anyone filing a report of Sexual Misconduct or Formal Complaint, (b) the parties or any other participants (including any witnesses or any University employee) in a Grievance Process relating to a Formal Complaint, (c) any person who refuses to participate in a Grievance Process, or (d) any person who under this Policy opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.



Source:

UT System Model Policy for Sexual Misconduct (2021)

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Intersectionality:

Interconnected nature of social categorizations such as race, class, and gender as they apply to a given individual or group.

Creates overlapping and independent systems of discrimination and disadvantage.



Source: *Demarginalizing the Intersection of Race and Sex...*
(Kimberlè Crenshaw, 1989)

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Power & Privilege Wheel

WHEEL OF POWER/PRIVILEGE



TYPES OF PRIVILEGE IN OUR SOCIETY

(Which are yours?)

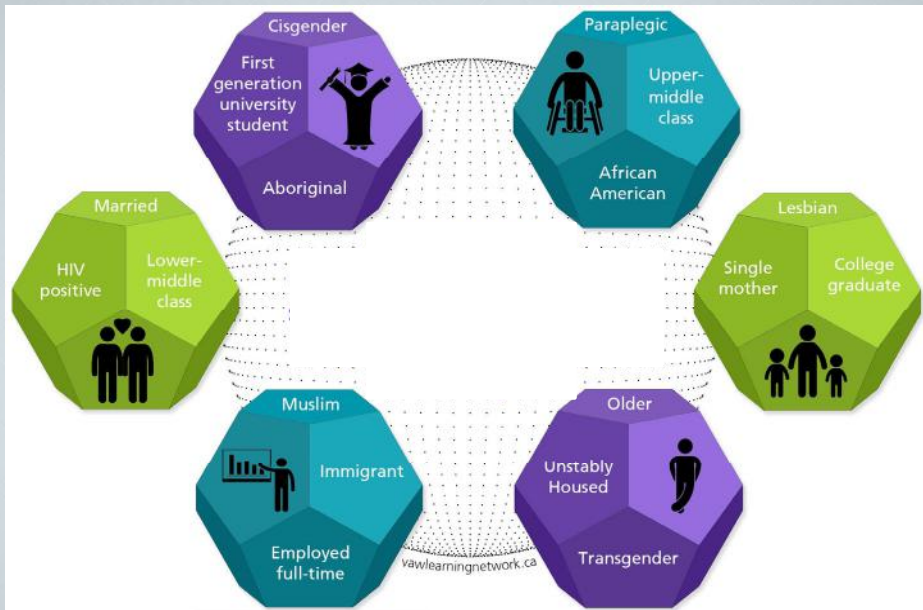
- More power ← → Less power
1. Light ← SKIN COLOUR → Dark
 2. Cisgender* ← woman ↔ GENDER → Gender diverse man
 3. Family wealth ← SOCIO-ECONOMIC → Poverty
 4. Post secondary ← FORMAL EDUCATION → Low level completion
 5. Citizenship ← DOCUMENTED STATUS → Undocumented immigrant
 6. Non-disabled ← PHYSICAL ABILITY → Disabled
 7. Neurotypical ← NEURODIVERSITY → Neurodivergent
 8. Heterosexual ← SEXUAL ORIENTATION → Gender queer
 9. Normative ← PHYSICAL APPEARANCE → Non-normative
 10. Robust ← MENTAL HEALTH → Vulnerable
 11. Christian ← RELIGION → Non-Christian
- * Gender corresponds with birth sex ▲ Developmental, intellectual & cognitive abilities



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Source: Sylvia Duckworth; Adapted from ccrweb.ca

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Source: www.vawlearningnetwork.ca

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Institutional Sexual Misconduct Policy (Example)

Prohibits sex discrimination, sexual harassment, retaliation, and other prohibited conduct under the policy, including:

- Sex Discrimination
- Sexual Harassment
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
- Retaliation
- Sexual Exploitation
- Other Inappropriate Sexual Conduct
- False Information & False Complaints
- Interference with the Grievance Process
- Failure to Report (for Responsible Employees)

Policy Differences Note: 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.



Source:

UT System Model Policy for Sexual Misconduct (2021)

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Institutions must reasonably respond in light of known circumstances...



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Why is it important that institutions respond to reports of sexual misconduct?

Stop

Prevent

Remedy

Institutions provide:

- Campus remedies & supportive measures (with or without filing a formal complaint)
- Prompt, fair, & equitable grievance processes (by filing a formal complaint)
- Preponderance of the evidence standard (in the formal grievance process)
- An informal resolution option (in some circumstances, if available)



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An Upstream Approach

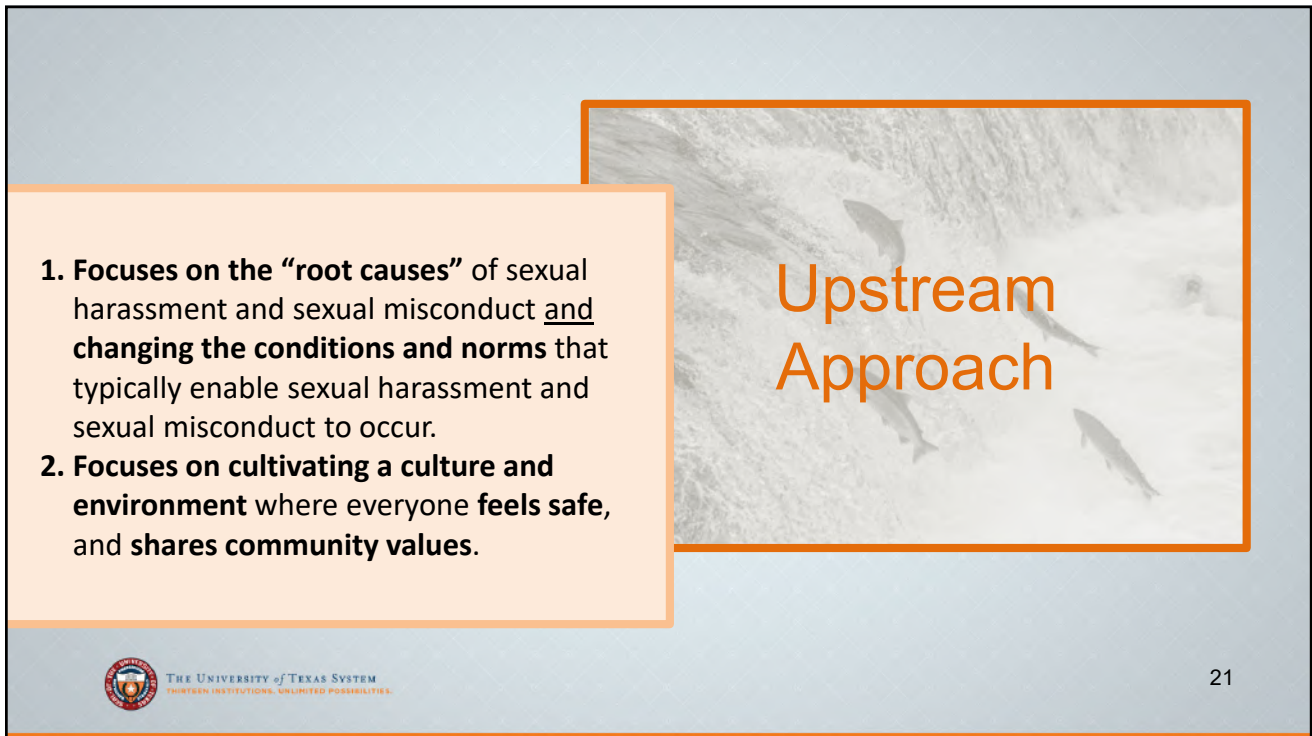
Primary
Prevention Tools



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The slide features a light blue background with a white box on the left containing two numbered points. To the right is a rectangular image of a river with several fish swimming upstream. The text 'Upstream Approach' is overlaid in orange on the right side of the image.

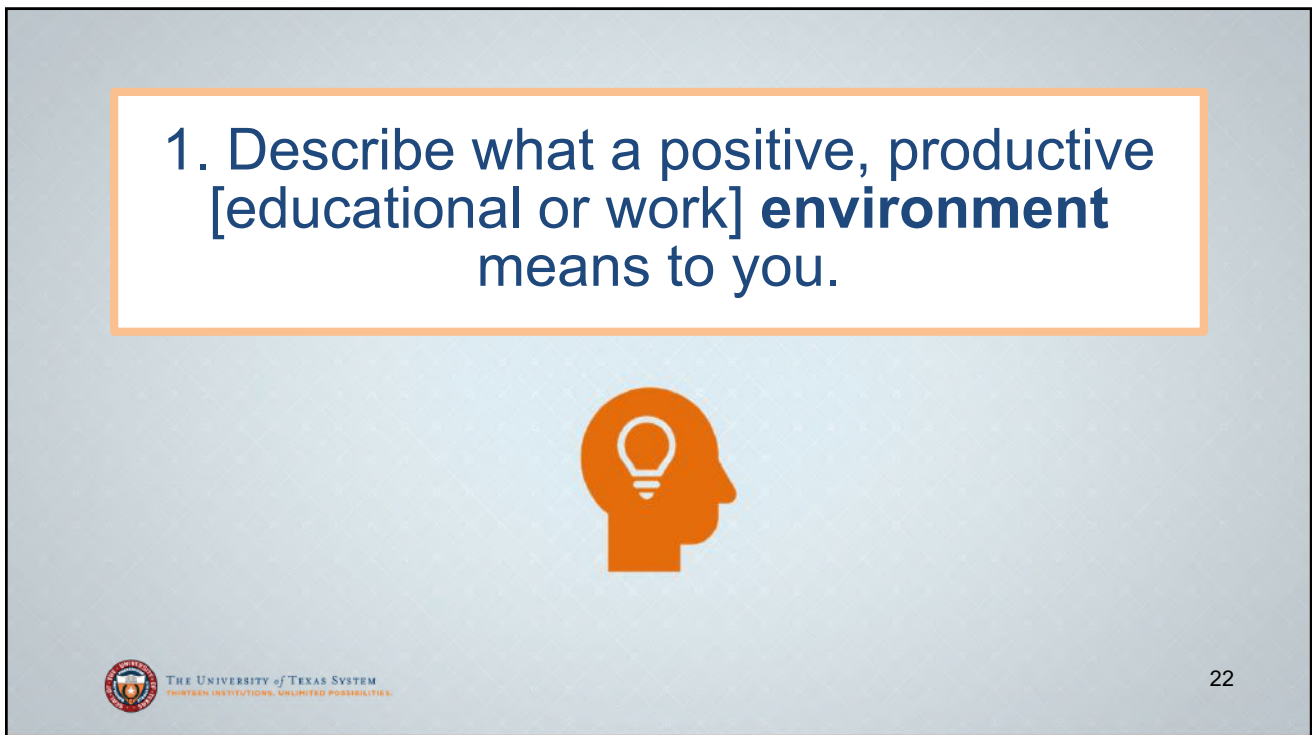
1. Focuses on the “root causes” of sexual harassment and sexual misconduct and **changing the conditions and norms** that typically enable sexual harassment and sexual misconduct to occur.
2. Focuses on **cultivating a culture and environment** where everyone **feels safe**, and **shares community values**.

Upstream Approach

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The slide has a light blue background. A white box in the upper center contains a single numbered point. Below the box is an orange icon of a human head profile with a lightbulb inside, symbolizing thought or ideas.

1. Describe what a positive, productive [educational or work] **environment** means to you.



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Examples of a positive, productive environment



- ✓ Being seen & heard
- ✓ Having agency of your work
- ✓ Bringing your “whole self” to work
- ✓ Being valued & respected
- ✓ Treating others with respect
- ✓ Being collaborative
- ✓ Listening to others



2. Name **community values** that can cultivate a positive environment where people can feel safe & thrive.



Examples of community values



- ✓ Respect
- ✓ Trust
- ✓ Communication
- ✓ Inclusion
- ✓ Teamwork
- ✓ Healthy Boundaries
- ✓ Support
- ✓ Accountability
- ✓ Transparency
- ✓ Learning



3. What does “**healthy conflict**” look like in a learning or working environment?



Examples of “healthy conflict”



- ✓ “Healthy discourse”
- ✓ Sharing differing viewpoints & perspectives openly
- ✓ Actively listening to others & considering others’ views
- ✓ Generating new ideas that address or counter other viewpoints
- ✓ Facilitating ideas for solutions to questions or problems

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4. Describe ways to foster **supportive relationships** with colleagues or staff.



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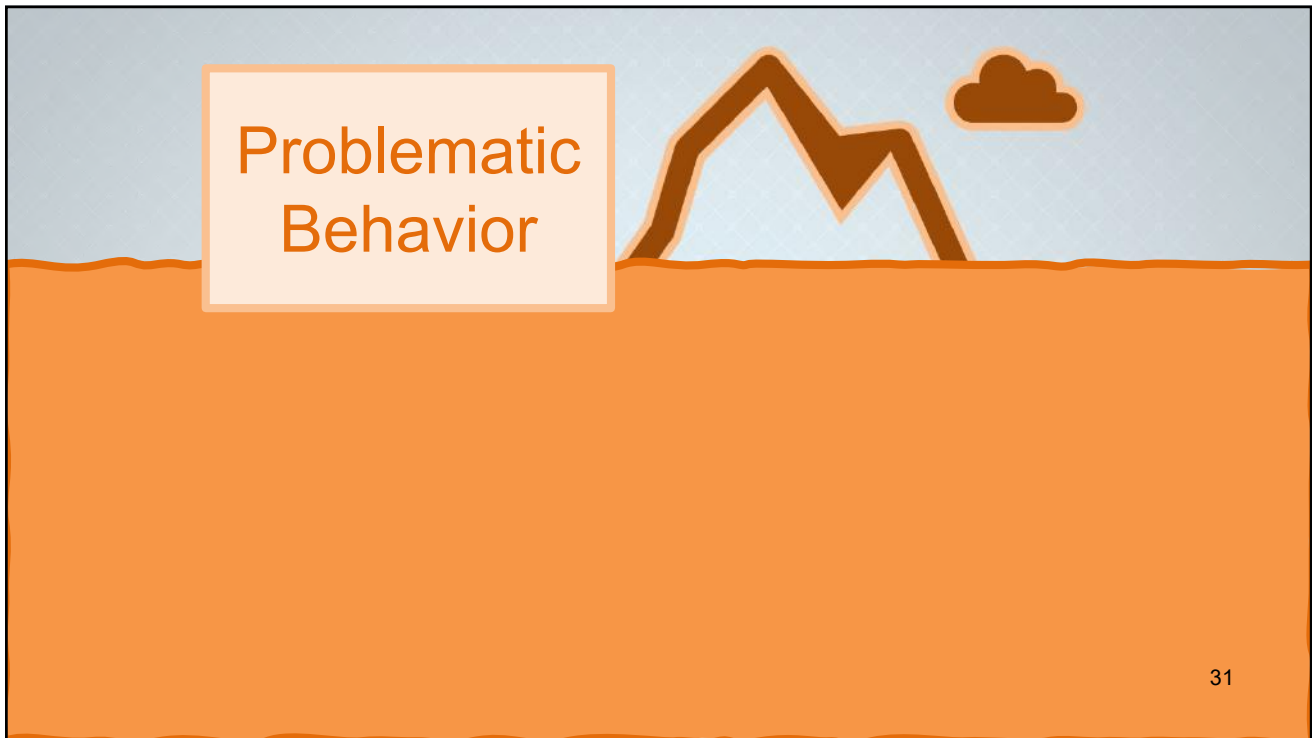
Examples of supportive relationships



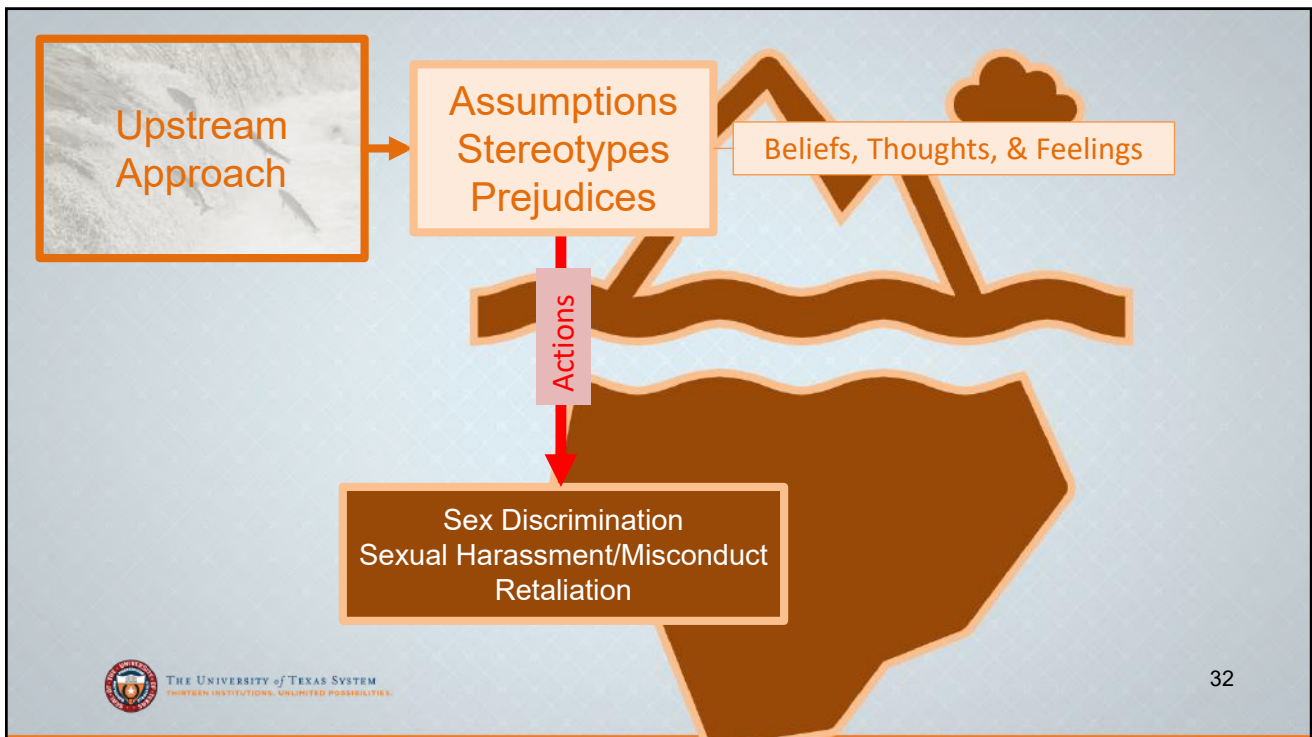
- ✓ Help others feel safe, a sense of belonging, and that they matter.
- ✓ Show genuine interest in others
- ✓ Acknowledge people's strengths & contributions
- ✓ Address people's needs
- ✓ Use active listening
- ✓ Follow-through on your words & actions
- ✓ Be open-minded
- ✓ Assume good will
- ✓ Engagement & participation
- ✓ Ask for input from others
- ✓ Reassess & keep it up!

1. Develop a **positive culture** and **environment**.
2. Share and reinforce **community values**.
3. Establish and maintain clear **boundaries, conduct expectations**, and accountable **consequences**.
4. Support **diversity** and **inclusion initiatives**.
5. Cultivate open **communication** and **collaboration**.
6. Foster **supportive relationships** within teams.

Recap: Upstream Approach to Primary Prevention



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What are some examples of **assumptions, stereotypes, or prejudices** relating to sex/gender that may emerge in a working or learning environment?



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Examples of sex/gender-based assumptions, stereotypes or prejudices



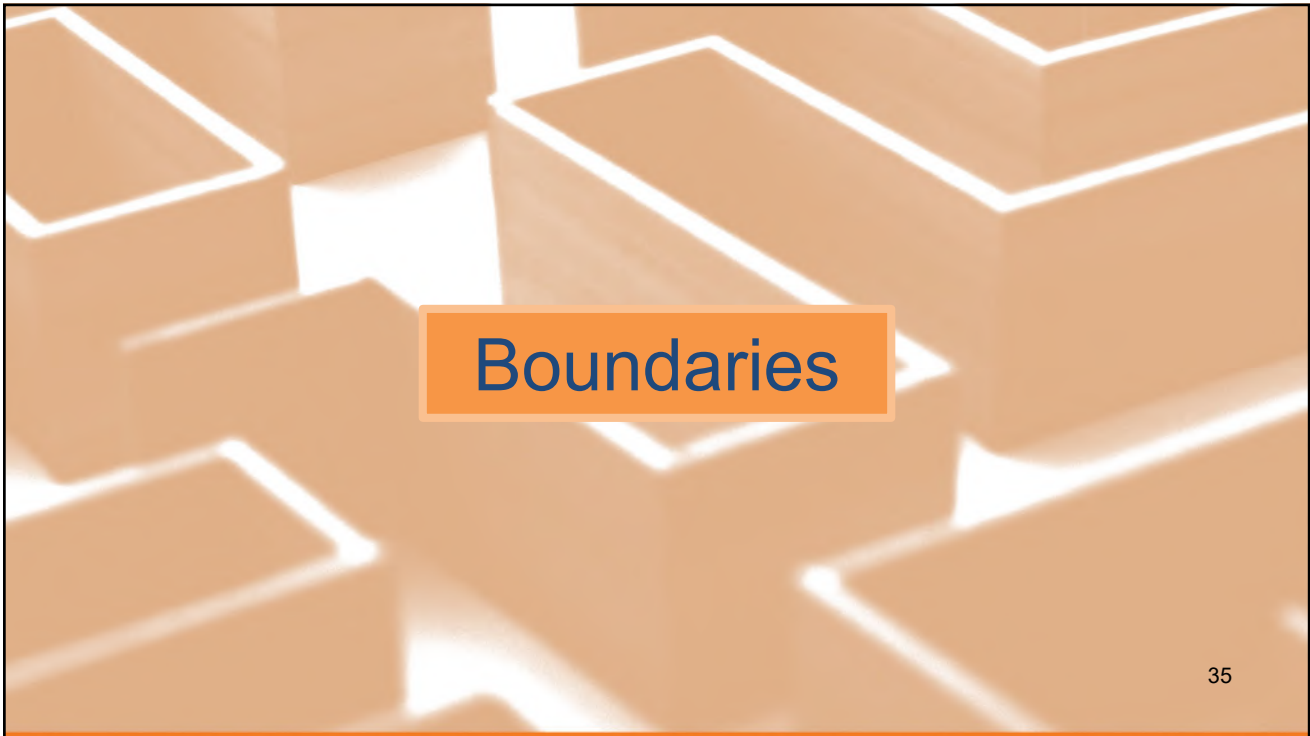
- ✓ Beliefs in strict gender roles
- ✓ Hostile attitudes toward a person on the basis of sex/gender (including gender identity & expression) or sexual orientation
- ✓ Accepting attitudes of IPV
- ✓ Assumptions that a person is superior/inferior on the basis of sex/gender (including gender identity & expression) or sexual orientation
- ✓ Beliefs in historical/societal gender norms



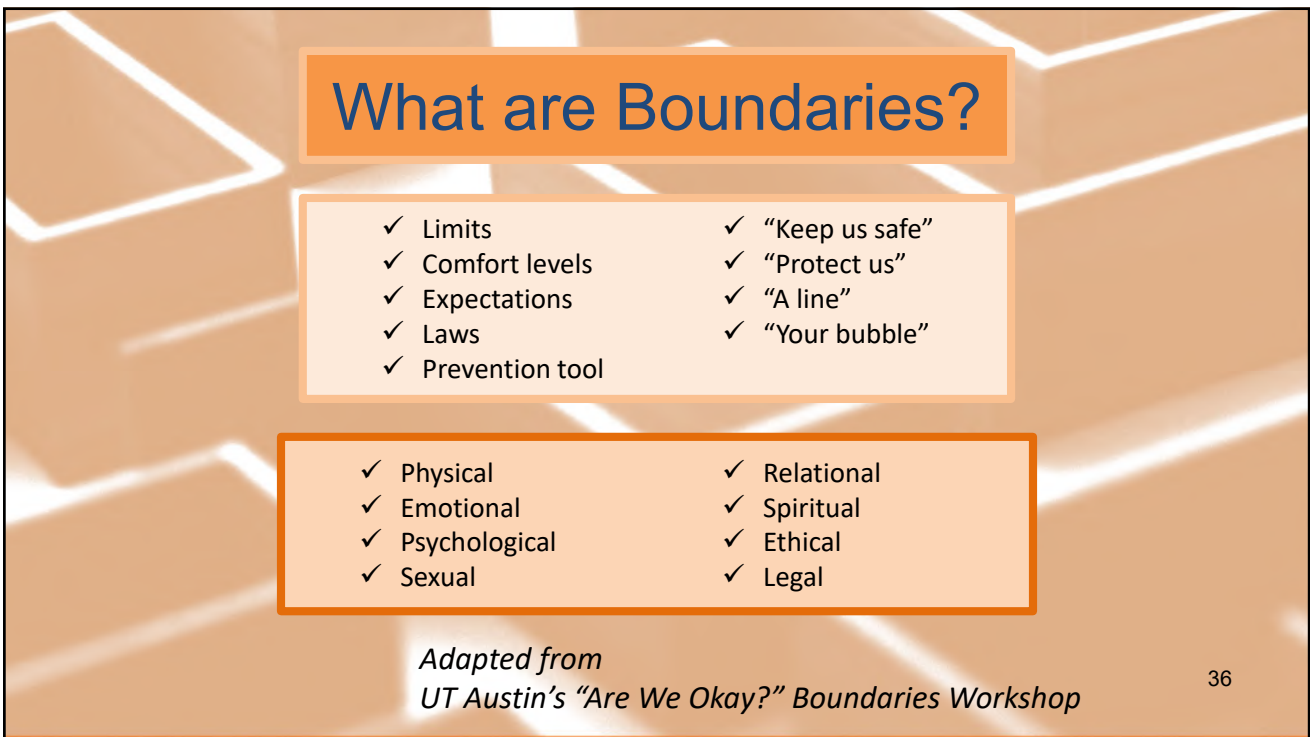
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Stop-Light Activity

For each prompt:
 (Green): Within your boundary
 (Yellow): Unsure of your boundary
 (Red): Outside your boundary

Adapted from
 UT Austin's "Are We Okay?" Boundaries Workshop

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Debrief

1. How did you know your boundaries when you were presented a hypothetical? How did you figure out where the "line" was for you?
2. How did it feel to name a color level to a hypothetical?...Green, yellow, or red...
3. How did you feel when you saw that others identify different levels of comfort than you? Either more comfortable or less comfortable than you in a scenario?

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Boundary Takeaways

- **Communication:** Continue to check-in and revisit boundaries, expectations, accountability, and responsibilities.
- **Taking stock:** Understanding others' needs, barriers, challenges, and support.
- **Generous assumptions:** Assume good will and/or good intentions.
- **Curiosity:** Ask questions to learn, clarify, and understand an unknown. Emphasize and model a growth mind-set.

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Recognizing Power Dynamics

Explicit/Formal Examples	Implicit/Informal Examples
Supervisory roles	Education/Degrees
Hierarchical positions	Titles
Leadership positions	Age and/or Years of experience
Decision-making responsibilities	Seniority statuses
Hiring responsibilities	Positional statuses
Budget and Funding responsibilities	Relational/Social statuses
	Identity groups

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Power Dynamics Reflection

1. Who is occupying the room (including yourself)?
2. How do the people (including yourself) impact the power dynamics of the group?
3. How will you accept and validate other people's boundaries?
4. Who is in a "better" position to talk about boundaries?
5. When should boundary conversations be happening?
6. Leaders: How are you integrating & sharing power to encourage collaboration?
7. How will you open the conversation about boundary setting?

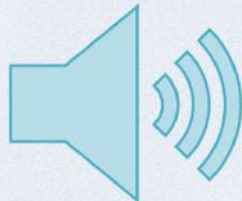


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How do we communicate boundaries?



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Examples of Communicating Boundaries

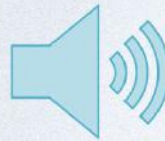
Approaches	Example Prompts or Strategies
Clarifying Check	<ul style="list-style-type: none"> • “Help me understand what [blank..] means... “ • “Help me understand what you meant by [blank.. repeat/paraphrase]... “
Direct Verbal Cues (“I” Statements)	<ul style="list-style-type: none"> • “I feel ____ when you say/do _____. [or] I am ____ when I hear you say _____.” • “I am not able to ____ when you say/do _____.” • “When you say/do _____, it affects me by _____.”
Redirect or Distract	<ul style="list-style-type: none"> • Change the subject • Refocus to the main topic at hand
Delegate	<ul style="list-style-type: none"> • Ask someone else to help you or to get assistance
Remove oneself from the situation	<ul style="list-style-type: none"> • Adjourn the meeting • Take a time out or excuse yourself from the space
Non-verbal Cues	<ul style="list-style-type: none"> • Shake head, discontinue eye contact, or cross your arms • Show “puzzling” or “turned-off” facial expression



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Giving Feedback (Examples)



Use “I” statements...

Acknowledge your feelings.

Focus on the impact of the conduct.

Center on your needs & what your boundary does for you.

Concentrate on the issue/problem, not the person.

Focus on strengths-based solutions...

Positive outcomes & benefits of acknowledging boundaries

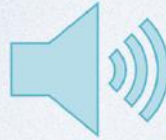
Adapted from

UT Austin’s “Are We Okay?” Boundaries Workshop

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Giving Feedback (Example “I” Statements)



Name your...	Example “I” Statements
Feeling(s)	<ul style="list-style-type: none"> • “I feel ____ when you say/do ____.” • “I am ____ when I hear you say ____.”
Impact(s)	<ul style="list-style-type: none"> • “I am not able to ____ when you say/do ____.” • “When you say/do ____, it affects me by ____.”
Need(s)	<ul style="list-style-type: none"> • “I need ____ from you.” • “When I ____, I need you to ____.” • What I need is ____.



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Receiving Feedback (Examples)



Take a pause.

Show gratitude: “Thank you for the feedback.”

Be accountable...

Acknowledge your behavior & its impact on other(s).

Reflect/restate the feedback you just heard.


Make a plan to change or adapt.

Change or adapt accordingly.

Adapted from
UT Austin’s “Are We Okay?” Boundaries Workshop

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Start-Stop-Continue Reflection

Going forward: With your own boundaries and the boundaries of others:

1. What are you going to start doing?
2. What are you going to stop doing?
3. What are you going to continue doing?

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Response & Intervention Tools



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Identify

Assumptions
Stereotypes
Prejudices





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Examples of sex/gender-based assumptions, stereotypes or prejudices



- ✓ Beliefs in strict gender roles
- ✓ Hostile attitudes toward a person on the basis of sex/gender (including gender identity & expression) or sexual orientation
- ✓ Accepting attitudes of IPV
- ✓ Assumptions that a person is superior/inferior on the basis of sex/gender (including gender identity & expression) or sexual orientation
- ✓ Beliefs in historical/societal gender norms



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Identify 


 Notice the behavior


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*Adapted from
UT Austin's Title IX Basics Workshop*

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Identify 

 Address the behavior

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*Adapted from
UT Austin's Title IX Basics Workshop*

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Examples of Addressing Behavior

Approaches	Example Prompts or Strategies
Clarifying Check	<ul style="list-style-type: none"> • “Help me understand what [blank..] means... “ • “Help me understand what you meant by [blank.. repeat/paraphrase]... “
Direct Verbal Cues (“I” Statements)	<ul style="list-style-type: none"> • “I feel ___ when you say/do ___. [or] I am ___ when I hear you say ___.” • “I am not able to ___ when you say/do ___.” • “When you say/do ___, it affects me by ___.”
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Identify



Follow-up

- “How did that affect you?”
- “Do you need support?”
- “What do I need?” (Self-care)



Adapted from
UT Austin’s Title IX Basics Workshop

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What are **barriers** to addressing behavior?

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Examples of Barriers or Roadblocks

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Type of Response	Example Statements	
Dismissive	<ul style="list-style-type: none"> <i>I never said/did that.</i> <i>Your memory is bad.</i> <i>I don't remember it that way.</i> 	<ul style="list-style-type: none"> <i>That didn't happen. [or] That's not what happened.</i> <i>I have no idea what you are talking about.</i>
Minimizing	<ul style="list-style-type: none"> <i>It's only a joke.</i> <i>We're just having fun.</i> <i>It's not that bad.</i> 	<ul style="list-style-type: none"> <i>Nobody got hurt.</i> <i>What's the big deal?</i>
Rationalizing or Making Excuses	<ul style="list-style-type: none"> <i>This wasn't ever an issue before.</i> <i>I said/did ____ because ____.</i> <i>I didn't even know I did anything.</i> <i>I didn't mean it like that.</i> 	<ul style="list-style-type: none"> <i>That's not how things used to be.</i> <i>No one else is saying anything.</i> <i>Others, even you, do the same thing too.</i>
Attacking or Defensive	<ul style="list-style-type: none"> <i>You're too sensitive. [or] You're overreacting.</i> <i>Why are you so emotional?</i> <i>You are taking it the wrong way.</i> <i>You think you are better than everyone else.</i> 	<ul style="list-style-type: none"> <i>It's your fault because ____.</i> <i>What about when you did ____?</i> <i>You're letting your emotions get the better of you.</i> <i>Who told you that?</i> <i>What do you have to back that up?</i>

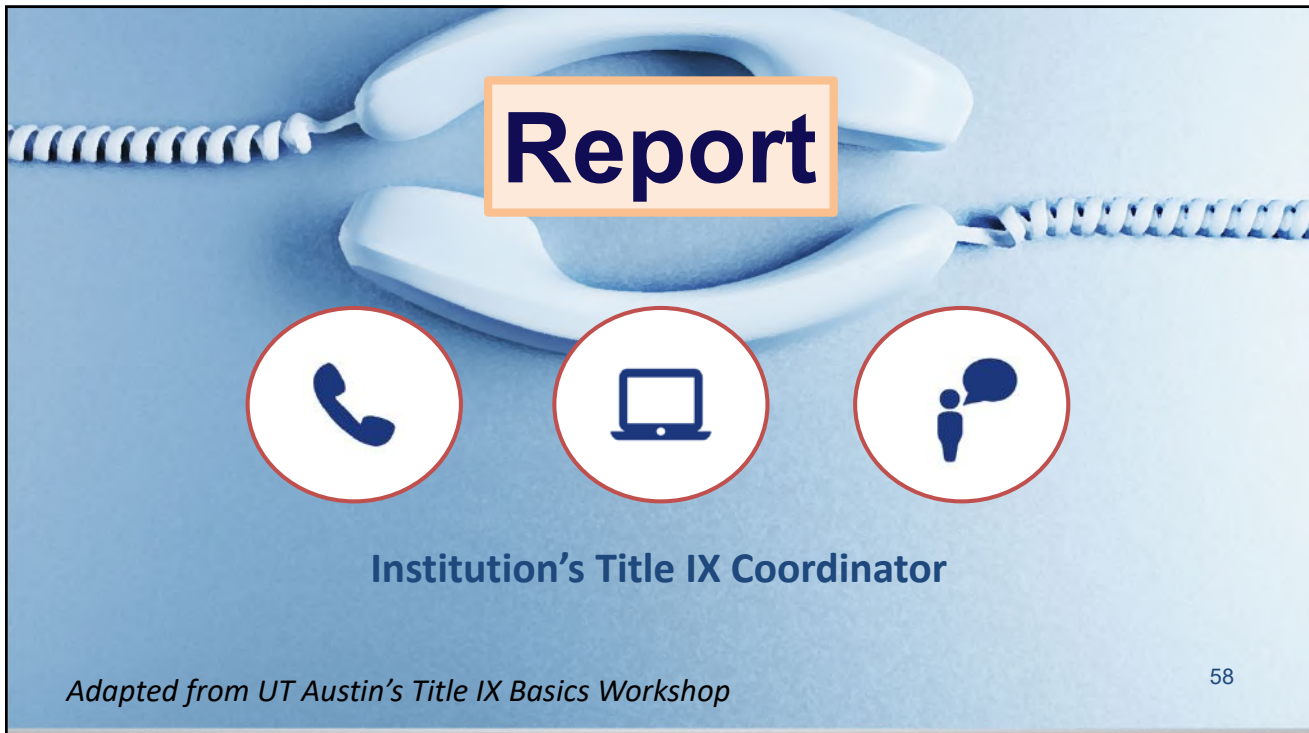


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Examples of Barriers or Roadblocks (Cont.)

Type of Response	Example Description
Bystander Effect	Says <u>nothing</u> because the presence of others might discourage a person from intervening. The greater the # of bystanders, the less likely it is for someone to provide help to a person in need.
Afraid for your own safety	Says <u>nothing</u> because he/she/they are fearful of jeopardizing their own safety
Uncertain what to do	Says <u>nothing</u> because he/she/they are unsure how to intervene

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Report

Institution's Title IX Coordinator

Adapted from UT Austin's Title IX Basics Workshop

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Responsible Employee Reporting Requirements

Under the institution's Sexual Misconduct Policy, **Responsible Employees** have a duty to report incidents and information reasonably believed to be sexual misconduct (prohibited conduct defined) under the Policy.

All employees are Responsible Employees (except Confidential Employees or police officers when a victim uses a pseudonym form). Responsible Employees include **all** administrators, faculty, and staff.

Responsible Employees must report all known information concerning an alleged incident of sexual misconduct to the **Title IX Coordinator**.



Source:

UT System Model Policy for Sexual Misconduct (2021)

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Examples of Confidential Employees?

Privileged communication under law:

- Licensed counselors, psychologists
- Doctors, physician assistants
- Nurses, nurse assistants
- Attorneys, general counsel
- Licensed social workers in a clinical or medical setting

Commonly designated "confidential" employees:

- Victim Advocates (who work with students)
- Student Ombuds



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Definition of “Failure to Report” for Responsible Employees

If a Responsible Employee knowingly fails to report all information concerning an incident the employee reasonably believes constitutes stalking, dating violence, sexual assault, or sexual harassment committed by or against a student or employee at the time of the incident, the employee is subject to disciplinary action, including termination.



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Source:

UT System Model Policy for Sexual Misconduct (2021)

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Report



UT Institution’s Title IX Coordinators:

<https://www.utsystem.edu/offices/systemwide-compliance/title-ix/ut-title-ix-coordinators>



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Challenges & Barriers to Accessing Support

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Intersectionality (Revisited):

*Interconnected nature of social categorizations
such as race, class, and gender as they apply to a
given individual or group.*

*Creates overlapping and independent systems of
discrimination and disadvantage.*

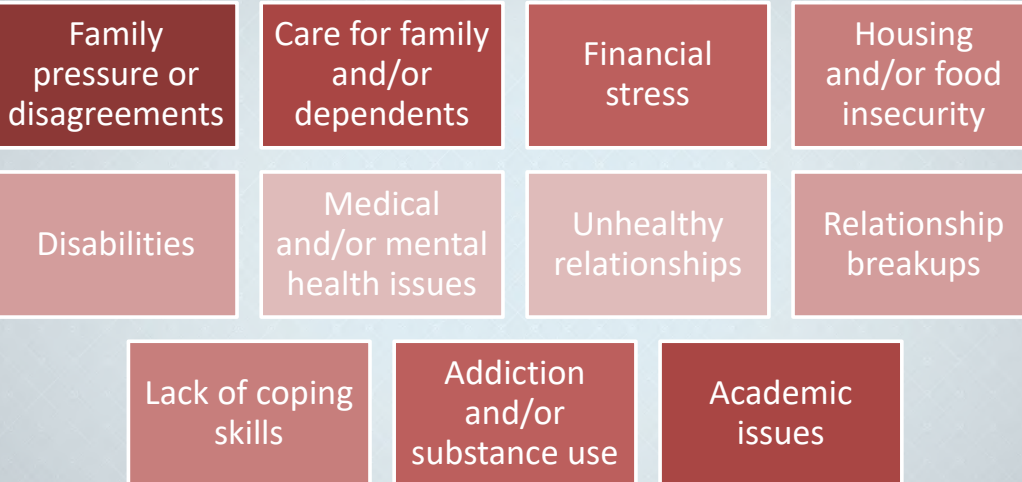


Source: *Demarginalizing the Intersection of Race and Sex...*
(Kimberlè Crenshaw, 1989)

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Challenges and Barriers



Intersectionality Considerations

- In what ways, if any, have **specific challenges** (e.g. racism, heterosexism, ableism, etc.) affected a person's experiences?
- In what ways, if any, have a person's **communities, family, or friends** affected a person's decisions to:
 - Tell someone or report an incident
 - End or continue an unhealthy or abusive relationship
 - Get help or support
- Has the person received **support** from family and friends throughout the process? What does "being supported" look like for each person?

Support



Listen
Express compassion
Referrals & Resources



*Adapted from
UT Austin's Title IX Basics Workshop*

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Support



Be transparent about your role
Be flexible
Take care of yourself



*Adapted from
UT Austin's Title IX Basics Workshop*

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Questions to Ask (Examples)



“How are you feeling?”
“What can I do to help?”
“What kind of support, if any, do you need?”
“How are you doing in [classes or at work]?”
“Do you have a supportive network?” [or]
“What’s your support network look like?”



Adapted from
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What to Say (Examples)



“Thank you for sharing this with me.”
“This sounds upsetting/difficult/hard.”
“I hear you.”
“I see that you’re feeling...X, Y, Z”
“I care about you and your experience.”



Adapted from
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What to **NOT** Say or Do (Examples)



- Questions about the incident.
- Attempting to investigate on your own.
- Questioning the validity of the person's experience.
 - "Why/how did this happen?"
- Placing blame.
- Promising outcomes.
- Promising accommodations that are out of your control.
- Sharing information related to the incident with...



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Examples of Supportive Measures

Non-Disciplinary & Non-Punitive Measures...

that do not
unreasonably
burden the other
party

Housing
Reassignment

Counseling
Services

Class Extensions
or Adjustments

Work or Class
Modifications

Class Withdrawal
or Retake
(w/o penalty)

Leave of Absence

Mutual
No-Contact
Btwn Parties

Campus Escort
Services

Increased
Campus Security



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Campus Support Services & Resources (Examples)

Equal access & availability to all parties

Examples:

- Academic advising & accommodations
- Counseling services
- Emergency housing
- Financial aid
- Medical/Health services
- Disability accommodations & services
- Employment-related support
- Safety, law enforcement, & escort services
- Victim advocacy services
- Ombuds services
- Respondent services
- Advisors for hearings

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Campus Support Services, Resources, & Policies

UT Institution's Title IX Coordinators:

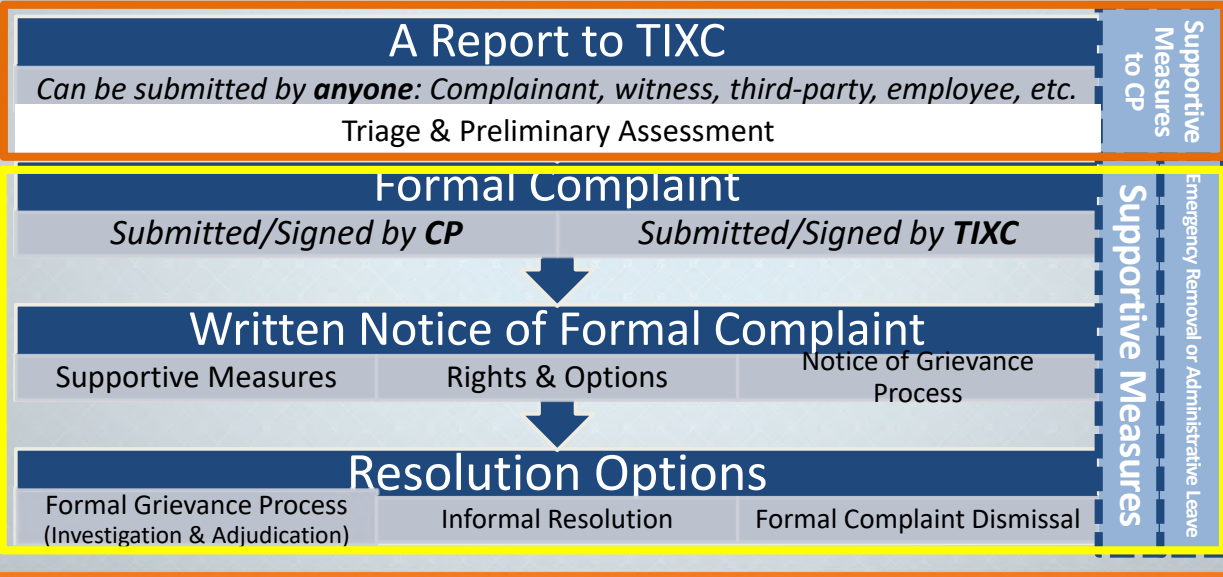
<https://www.utsystem.edu/offices/systemwide-compliance/title-ix/ut-title-ix-coordinators>

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Resolution Flowchart: Sexual Misconduct Cases (Example)

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Q & A



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