

The University of Arizona INTERIM PROCEDURES FOR FORMAL COMPLAINTS OF TITLE IX SEXUAL HARASSMENT

The University of Arizona is committed to creating and maintaining an environment free of discrimination. In support of this commitment, the University prohibits sex-based discrimination including harassment and violence. A person affected by discrimination can seek confidential support or assistance, can request supportive measures, and can request formal disciplinary proceedings by the University.

For information about prohibited discrimination based on protected categories, including sex, please see our [Nondiscrimination and Anti-harassment Policy](#). Please see the Arizona Board of Regents [Student Code of Conduct](#) for additional information related to prohibited student behavior.

Purpose and Application

These Interim Procedures for Formal Complaints of Title IX Sexual Harassment (Procedures) describe the exclusive process that will be followed by the University to resolve Formal Complaints of Title IX Sexual Harassment.

Title IX Sexual Harassment is conduct based on sex occurring within a University-sponsored educational program or activity in the United States that constitutes one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; or
- Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a University-sponsored educational program or activity; or
- Any of the following specific acts of sexual harassment: sexual assault (as defined by the Clery Act¹) dating violence, domestic violence, and stalking (as defined by the Violence Against Women Act²).

If the facts or occurrences forming the basis of a Formal Complaint of Title IX Sexual Harassment would also constitute a violation of other University policies, those potential policy violations will be addressed outside of these Procedures through the applicable University processes. When appropriate, these Procedures may proceed concurrently or sequentially with any other University process addressing other aspects of the facts and occurrences giving rise to a Formal Complaint of Title IX Sexual Harassment.

¹ See 20 U.S.C. 1092(f)(6)(A)(v)) ² See 34 U.S.C. §12291

The University may amend these Procedures from time to time within its discretion. Amendments may apply to ongoing matters at the time the amendment is made, unless the effect of the amendment is to reduce the rights of either a Complainant or Respondent, in which case the version of these Procedures in effect at the time the Formal Complaint was made will be followed.

Supportive Measures

The University offers a range of resources to students and employees impacted by sex-based discrimination including Supportive Measures. Supportive Measures are designed to restore or preserve equal access to the University's educational and working programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties, the University educational environment, or deter sexual harassment.

1. The filing of a Formal Complaint of Title IX Sexual Harassment is not required for Supportive Measures to be provided by the University.
2. Supportive Measures are non-disciplinary, non-punitive individualized services, offered as appropriate and reasonably available to Complainants and Respondents and may include: counseling, extension of deadlines or other course-related adjustments, modification of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of campus areas, and other similar measures.
3. Supportive Measures may also include administrative and educational actions that do not unreasonably burden another party. Administrative and educational actions are not disciplinary.
4. The University will maintain the confidentiality of any Supportive Measure(s) provided to the extent that doing so does not impair the ability of the University to provide the Supportive Measures.

Principles of Investigation and Adjudication

During each phase of these Procedures, all individuals employed by the University or legally recognized as agents of the University with responsibilities directly related to these Procedures (including the Title IX Coordinator, Deputy Title IX Coordinators, Investigators, and Hearing Officers) will reinforce and affirm the University's commitment to:

1. Sharing information about all relevant University policies and these Procedures with Complainants and Respondents.
2. Evaluating information and evidence objectively and impartially throughout all phases of the Procedures so that Complainants and Respondents are not disadvantaged due to bias. Beginning the investigative process with a

presumption that the Respondent is not be responsible for the alleged conduct and to suspend judgment concerning responsibility until all relevant evidence has been considered and a determination is made at the conclusion of the grievance process.

3. Avoiding relying on sex or gender stereotypes during the decision-making process.
4. Informing Complainants and Respondents that the preponderance of the evidence standard will be applied to make the Determination regarding responsibility and explaining its meaning.
5. Providing Complainants and Respondents with the possible range of discipline that may be issued.
6. Recognizing legal privileges that apply to Complainants and Respondents unless the privilege has been knowingly waived, including attorney-client and medical privacy privileges.
7. Completing the overall decision-making process in a reasonable timeframe while being flexible concerning deadlines when good cause for extensions are presented.
8. Providing Complainants and Respondents with information about how to appeal Determinations of responsibility or Dismissal and the grounds for appeal.

Privacy and Confidentiality

The University seeks to maintain and respect the privacy and confidentiality of information obtained during these Procedures to the extent feasible. Disclosure may occur in some circumstances, including for investigation and evidence-gathering purposes and in order to notify individuals of the outcome of an investigation. Other situations where disclosure may occur include, but are not limited to, disclosures permitted by the Family Educational Rights and Privacy Act (FERPA) and required compliance with an obligation imposed on the University by law, or facilitation of other legitimate University processes.

Filing a Formal Complaint

Formal Complaints must be filed directly with the Title IX Coordinator in person, by mail, or by electronic mail. It is strongly encouraged that the Formal Complaint be filed using an online filing form at equity.arizona.edu/report-concern.

1. To file a Formal Complaint of Title IX Sexual Harassment, a Complainant must submit a document (or electronic submission) that contains:
 - a. The Complainant's digital or physical signature.
 - b. An allegation of Title IX Sexual Harassment against a Respondent.
 - c. A statement of what action is being requested; and
 - d. A statement that the Complainant is participating in, or attempting to participate in, a University educational program or activity.

2. After filing a Formal Complaint, a Complainant may withdraw their Formal Complaint at any time by providing written notice to the Title IX Coordinator.
3. The Title IX Coordinator may also sign a Formal Complaint to initiate or continue these Procedures. Signing a Formal Complaint does not make the Title IX Coordinator a Complainant or party.
4. If more than one Complainant alleges, or more than one Respondent is subject to allegations of, Title IX Sexual Harassment arising from the same set of facts or occurrences, the Title IX Coordinator may consolidate the Formal Complaints for the remainder of the decision-making process. When consolidation occurs, the parties will be informed in writing.

Initial Assessment

The Title IX Coordinator will make an initial assessment, based on a limited threshold review, as to whether the Formal Complaint of Title IX Sexual Harassment alleges conduct that may be addressed through these Procedures.

1. If the Formal Complaint appears to allege conduct that may be addressed through these Procedures, the investigative process will proceed.
2. If the initial assessment of a Formal Complaint reveals insufficiencies that can be addressed (e.g., the identity of the Respondent is not provided), the Title IX Coordinator can request additional information from the Complainant to clarify allegations in the Formal Complaint. If the amended Formal Complaint appears to fulfill requirements, the investigative process will proceed.
3. If the conduct alleged in the Formal Complaint would not constitute sexual harassment even if proved, did not occur in a University-sponsored educational program or activity, or did not occur against a person in the United States, the Formal Complaint must be dismissed. A mandatory dismissal does not mean that the University cannot or will not review and respond to the alleged behavior under other applicable University policies and processes. In those cases, the Title IX Coordinator will refer the matter as is appropriate.
4. If the Formal Complaint is dismissed the Complainant will receive an explanation in writing, including information regarding the appeal process, referrals to other appropriate administrative units or University officials, and resources available to assist the Complainant.

Interim Actions

The University may remove a student or employee from a University education program or activity after conducting an individualized assessment of safety factors to determine whether an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal.

Emergency Removal

1. Both Complainant and Respondent will receive notice of the Emergency Removal which shall include the terms of the removal and notice of the right to challenge the decision immediately following the removal.
2. A challenge to an Emergency Removal must occur no later than five (5) days following the effective date of the removal.
3. Each party will be notified of any challenge and given two (2) days to submit any written response to the challenge.
4. The University will determine whether the removal should remain in place or be lifted.
5. The Emergency Removal decision and appeal will take no more than twenty (20) days from the date of the notice of the removal.
6. If upheld, the Emergency Removal will remain in effect until the decision-making process is concluded or the reasons for imposing the emergency removal no longer exist.
7. A Title IX Coordinator, Investigator, or Decision-Maker may have a role in the Emergency Removal process as long as such a role does not result in a conflict of interest or bias with respect to the grievance process.

Administrative Leave

An employee Respondent may be placed on administrative leave during the Title IX investigation and adjudication process in accordance with applicable University employment policies and practices.

Notice of Allegation

Upon confirmation of receipt of a Formal Complaint, the Title IX Coordinator or designee will provide written notice to the Complainant and Respondent (Notice) containing:

1. A link to the University's Nondiscrimination and Anti-harassment Policy and these Procedures.
2. The allegations of sexual harassment made by the Complainant including the identities of those involved in the incident, the conduct that is alleged to have been sexual harassment, and the date and location of the conduct, if known.
3. A statement informing the parties that employees and students are required to attend any meeting scheduled under these Procedures. While attendance is required, students and employees are not required to participate in meetings under this process. If an individual chooses to participate in the process, they must do so by providing truthful information. Providing false or misleading information in this process may result in disciplinary action under other University policies.
4. A statement that the Complainant and Respondent may have an advisor of their choice who may be, but is not required to be, an attorney, and that they, or their advisors, may inspect and review evidence under these Procedures.
5. The Notice shall be sent to both parties at least three (3) days prior to any

- scheduled interview in order to allow Complainant and Respondent sufficient time to prepare a response and attend the meeting.
6. A statement that all evidence directly related to the Formal Complaint will be shared with both parties.
 7. A statement that the standard of review is preponderance of evidence and that the University has the burden of proof.
 8. A statement that the Respondent is presumed not responsible until a Determination of responsibility is made after a hearing.
 9. A statement that there is no restriction on the ability of either party to discuss the allegations under investigation or their own knowledge of facts to gather and present relevant evidence throughout the investigation and adjudication process.
 10. A statement that if, in the course of an investigation, additional allegations about the Complainant or Respondent are identified, that were not included in the notice already provided, an additional notice of allegations (supplemental notice) to the parties whose identities are known will be provided.
 11. A statement that if the Formal Complaint must be dismissed, the allegations may be investigated under the Student Code of Conduct, Nondiscrimination and Anti-harassment Policy, or other applicable University policy.

Investigation Process

The Investigator will:

1. Gather evidence sufficient for the Hearing Officer to reasonably determine after a Hearing whether the Respondent is responsible for the alleged sexual harassment based on the preponderance of the evidence.
2. Provide Complainant and Respondent with written notice of the date, time, location, participants, and purpose of any meeting or interview that includes Complainant or Respondent allowing sufficient time for the Complainant or Respondent to meaningfully participate.
3. Provide Complainant and Respondent with the same reasonable opportunities to meet with the Investigator, present witnesses, including fact and expert witnesses, and any other evidence.
4. Allow the Complainant and Respondent to discuss the allegations, gather evidence, or present relevant evidence to the Investigator at any point during the investigation.
5. Provide Complainant and Respondent with an equal opportunity to reasonably inspect or review any relevant evidence obtained by the Investigator during the investigation.
6. Allow the Complainant and Respondent to have an advisor of their choice.
7. Complete the investigation within ninety (90) days of receiving the Formal Complaint unless the complexity of the allegations, facts, or evidence, or other cause for an extension exists. When an extension is necessary, the Investigator will inform the Complainant and Respondent of the extension in writing.
8. Provide Complainant and Respondent equal opportunity to inspect and review

any evidence obtained by the Investigator as part of the investigation of the Formal Complaint that is directly related to the allegations raised at least ten (10) days prior to the Investigator completing the Investigative Report. If the Complainant or Respondent respond to the evidence in writing, the Investigator will consider that response prior to completing the initial Investigative Report.

Investigative Report

At the conclusion of the investigation, and at least ten (10) days prior to the Hearing, the Investigator will provide a written report to Complainant and Respondent, and their advisors, that fairly summarizes the relevant evidence and includes a description of the procedural steps taken from the receipt of the formal complaint through the completion of the investigative report.

Response to Investigative Report

After receipt of the initial Investigative Report, the Complainant and Respondent may provide a written response to the Title IX Coordinator within five (5) days. The response should provide reasons for disagreement with the Investigative Report. The investigator will make any necessary revisions and finalize the Investigative Report. All party responses to the initial Investigative Report will be included in the investigation file. The Investigator will send a copy of the final Investigative Report to the Hearing Officer who will conduct the hearing.

Hearing

A Hearing Officer will preside over the hearing. The Hearing Officer will make all decisions concerning how the Hearing will be conducted with the following requirements included:

1. The Hearing Officer will provide the Complainant and Respondent with written notice of the assignment and direction as to the time, place, nature of the hearing, the specific allegations made, and any pre-hearing process for the Hearing. The Notice, which will be provided to the parties no less than twenty (20) days prior to the date set for the hearing, will include the other requirements described in this section, include a copy of the Investigative Report, and affirm that the Hearing is being conducted under 34 C.F.R. Part 106.45, Arizona Board of Regents policy, and these procedures. The notice will be directed to the Complainant and Respondent's University e-mail addresses.
2. No later than five (5) days prior to the hearing Complainant and Respondent will identify their expected hearing attendees, including any advisor, and their expected witnesses (including themselves) and indicate the witnesses expected sequence. The disclosure will be supplied to the other party. The parties are not bound by their disclosures but should submit any information in good faith.

3. If the Complainant or Respondent does not have an advisor for the Hearing, the Title IX Coordinator will provide a Hearing Advisor to Complainant or Respondent without fee or charge solely to conduct cross-examination on behalf of Complainant or Respondent.
4. Complainant and Respondent are not permitted to ask questions of the other party or witnesses and must consult with, rely on, and direct their advisors to ask questions on behalf of the Complainant and Respondent.
5. The advisors for the Complainant and Respondent will be permitted to ask relevant questions of the other party and witnesses, including those that challenge credibility.
6. The Hearing Officer has the authority to exclude any question asked by the advisors for Complainant or Respondent as being irrelevant, but if the Hearing Officer chooses to exclude a question, the Hearing Officer must explain to the participants the reasons why the question is irrelevant.
7. Questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions about prior sexual behavior are asked to prove that someone other than Respondent committed the sexually harassing conduct alleged by Complainant, or if the questions asked concern the Respondent's interaction with Complainant and are to prove consent by Complainant.
8. Advisors are not permitted to make factual or legal arguments on behalf of Complainant and Respondent to the Hearing Officer.
9. If the Complainant or Respondent, or any witness, refuses to subject themselves to cross-examination, the Hearing Officer must not rely on any statements from that party or witness in reaching the decision determining responsibility. However, the Hearing Officer cannot infer that the refusal, or the absence, of a party or witness at the Hearing itself creates a reason to doubt all of the other relevant evidence objectively.
10. The Hearing must be "live" meaning that the parties and their advisors will participate in person or virtually for all parts of the Hearing.
11. The Complainant or Respondent may request in writing prior to the Hearing that the Complainant and Respondent be in separate rooms during the Hearing with technology enabling the participants in the Hearing to see and hear each other. If this request is made, the Hearing Officer will ensure the appropriate technology and support is provided to comply with this request.
12. The Hearing Officer may choose to conduct the Hearing, or any portion of the Hearing, virtually as long as the technology used ensures that participants can see and hear each other, their advisors, the Hearing Officer, and the witnesses.
13. The Hearing Officer will ensure that an audio/visual recording, or transcript, of the Hearing will be made and that Complainant and Respondent will have access to the recording or transcript.
14. Other than these requirements, the Hearing Officer has the discretion and authority to conduct the Hearing as the Hearing Officer sees fit with due consideration of treating the Complainant and Respondent equitably concerning the presentation of relevant evidence. This may include conducting any pre-hearing conferences or communications as necessary. The Hearing Officer may

assign a technical assistant or other person to organize and facilitate the Hearing process.

Hearing Officer's Determination Regarding Responsibility

The Hearing Officer will simultaneously issue to Complainant and Respondent a written Determination regarding responsibility within twenty (20) days after the conclusion of the Hearing. The Determination will include:

1. The allegations of sexual harassment in the Formal Complaint or any supplemental notice.
2. A description of the procedural steps taken from receipt of the Formal Complaint, including notifications, dates of meetings or interviews, site visits, and methods used to gather evidence during the investigation, and the Hearing.
3. A statement of the standard of evidence used (preponderance of the evidence).
4. Findings of fact.
5. Conclusions regarding the application of the alleged violations to the facts.
6. A statement concerning the reasoning for determining responsibility, or lack of responsibility, for each allegation of sexual harassment in the Formal Complaint or supplemental notice.
7. A statement of any disciplinary sanctions for a Determination of responsibility including rationale.
8. A statement whether remedies designed to restore or preserve equal access to a University educational program or activity will be provided to the Complainant and that the Title IX Coordinator is responsible for promptly implementing remedies.
9. The procedures outlined for an Appeal of the Determination regarding responsibility and a statement that the Determination regarding responsibility is the final adjudication action unless Complainant or Respondent chooses to Appeal.

Dismissal of Formal Complaint

Mandatory Dismissal

1. A Mandatory dismissal may occur at any time during these Procedures.
2. If a Formal Complaint is filed, the Title IX Coordinator will initiate an investigation if the Formal Complaint appears to allege conduct that may be addressed through these procedures based on the Title IX Coordinator's limited threshold review.
3. If the conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment even if proved, did not occur in a University educational program or activity, or did not occur in the United States, the Title IX Coordinator must dismiss the Formal Complaint prior to investigation.

4. If at any point following the initiation of investigation it is determined that the conduct alleged in the Formal Complaint would not constitute sexual harassment even if proved, did not occur in a University educational program or activity, or did not occur in the United States, the Title IX Coordinator must dismiss the Formal Complaint.
5. A written notice of dismissal will be simultaneously communicated to the Complainant and Respondent and include a rationale and information of appeal options.
6. A written notice of dismissal will include a statement that the Dismissal does not prevent the Complainant from seeking rights and remedies under another University policy or process.
7. The Dismissal may be appealed as outlined below by providing a written Appeal of the Dismissal to the Provost and Title IX Coordinator within ten (10) days of the Dismissal.

Complainant Withdrawal

1. If the Complainant notifies the Title IX Coordinator in writing that they wish to withdraw the Formal Complaint at any point in the decision- making process, the Title IX Coordinator may dismiss the Formal Complaint.

Appeal of a Determination or Dismissal

The only grounds for appeal are:

1. A Procedural irregularity that affected the outcome.
2. New evidence exists that was not reasonably available at the time the Determination of responsibility or Dismissal was made that would affect the outcome of the matter.
3. The decision was not reasonably justified by the evidence or was contrary to law.
4. Excessive severity of the disciplinary sanction.
5. The Title IX Coordinator, Investigator, Hearing Officer or Decision-maker had a conflict of interest or bias for or against a party that affected the outcome.

Procedures for Appeal

1. If Complainant or Respondent chooses to file an Appeal of a Determination of responsibility or Dismissal, the Complainant or Respondent must provide a Written Statement of Appeal to the Provost and Title IX Coordinator within ten (10) days of the Determination or Dismissal.
2. The Written Statement of Appeal must include the grounds for the Appeal and describe the relevant evidence supporting the specific grounds for the Appeal.

3. If the grounds for Appeal is to consider new evidence that was not reasonably available to the appealing party at the time the Determination of responsibility or Dismissal was made that would affect the outcome of the matter, the Appeal must include such information which may be included as an attachment to the Written Statement of Appeal.
4. The Title IX Coordinator retains discretion to verify and/or waive minor procedural variations in the timing and content of the Appeal submission. If the Title IX Coordinator exercises this discretion, the Complainant and Respondent will receive a written explanation for the action and reason(s) for the action.
5. Upon receipt of a timely Appeal, the Title IX Coordinator or designee will provide the other party with notification of the Appeal.
6. The Title IX Coordinator or designee will provide the party who is not seeking Appeal with the Written Statement of Appeal, including any attachments.
7. The party not seeking Appeal will then have ten (10) days after receipt of the Written Statement of Appeal to provide the Provost and the Title IX Coordinator with a Response to the Written Statement of Appeal that requests affirmation of the Determination of responsibility or Dismissal and/or responds to the submitted Appeal.
8. Within twenty (20) days of receiving the Response to Written Statement of Appeal, the Provost or designee will provide a written decision to Complainant and Respondent explaining the rationale for the decision. The Appeal Decision of the Provost or designee is final.

Terms as used in these Procedures:

Advisor

An individual selected by a Complainant or Respondent to advise them. The advisor may be an attorney and will conduct cross-examination during a live hearing.

Complainant

An individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment as addressed by these Procedures.

Consent

Consent in the context of sexual activity means informed and freely given words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent may not be inferred from: 1) silence, passivity or lack of resistance, 2) a current or previous dating or sexual relationship, 3) acceptance or provision of gifts, meals, drinks, or other items, or 4) previous consent to sexual activity. Consent may be withdrawn during sexual activity. Consent to one form of consensual sexual activity does not imply consent to any other form of sexual activity. Consent may not be obtained through physical force, violence, duress, intimidation, coercion, or an express or implied threat of injury. Consent may never be given by a person who is: incapacitated (by drugs, alcohol or otherwise), unconscious, asleep, or otherwise physically or mentally unable to make informed, rational judgments. The use of alcohol

or drugs does not diminish one's responsibility to obtain consent and does not excuse conduct. Consent cannot be given by someone who, by virtue of age, circumstances, or other factors, is deemed by law to be incapable of giving consent.

Dating Violence

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 shall be determined based on the information available and consideration of the following factors: 1) the length of the relationship, 2) the type of relationship, and 3) the frequency of interaction between the persons involved in the relationship.

Days

Day means a university business day, not including Saturday, Sunday or a university-recognized holiday, or any day the university is closed or there is a break in the academic calendar.

Domestic Violence

Conduct that would meet the definition of a felony or misdemeanor crime of violence committed:

- a. by a current or former spouse or intimate partner of the Complainant, by a person who is cohabitating with, or who has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of an applicable jurisdiction;
- b. by a person with whom the Complainant has a child in common or either party is pregnant by the other party;
- c. by a person residing or having resided in the same household;
- d. where a Complainant is related to the Respondent or the Respondent's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law; or
- e. where a victim is a child who resides or has resided in the same household as the Respondent and is related by blood to a former spouse of the Respondent or to a person who resides or who has resided in the same household as the Respondent.

Educational program or activity

Locations, events, or circumstances in the United States over which the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, including employment, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Hearing Advisor

An individual provided by the University to the Complainant or Respondent to conduct cross-examination during a live hearing.

Range of Discipline

Disciplinary sanctions issued to a student may range from removal from a University educational program or activity to expulsion and degree revocation; and for an employee disciplinary sanctions may include a written warning, written reprimand, suspension without pay, involuntary demotion, disciplinary probation, and dismissal. Disciplinary sanctions may also be accompanied by other, non-disciplinary actions, allowable under existing university rules, policies, and practices.

Respondent

An individual who has been reported to be the perpetrator of conduct that could be constitute Title IX Sexual Harassment as addressed by these Procedures.

Sexual Assault

Any attempted or actual sexual act³ directed against a Complainant, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that person's safety or the safety of others or to suffer substantial emotional distress.

EFFECTIVE DATE: AUG. 14, 2020

³ **Sexual Acts include the following forcible and non-forcible sexual acts and sexual violations:**

Rape. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of that person.

Sodomy. Oral or anal sexual intercourse with another person, without the Consent of that person, including instances where that person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacitation.

Sexual Assault with an Object. To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of that person, including instances where that person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacitation.

Fondling. The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of that person, including in instances where that person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacitation.

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

Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent as defined by law.