

Krista Anderson, Systemwide Title IX Coordinator

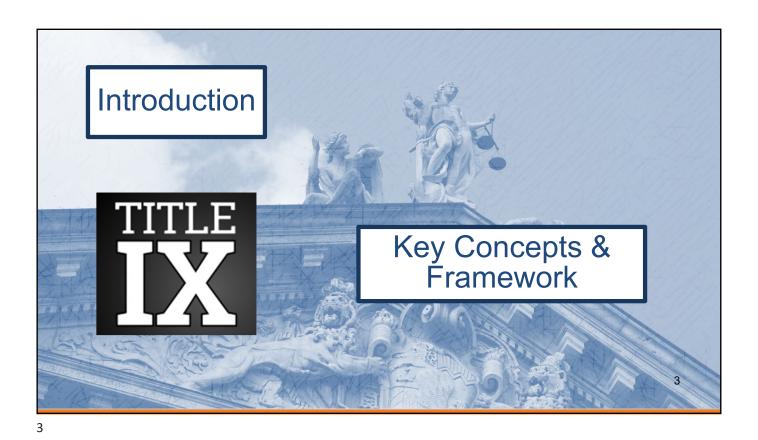
Spring 2022

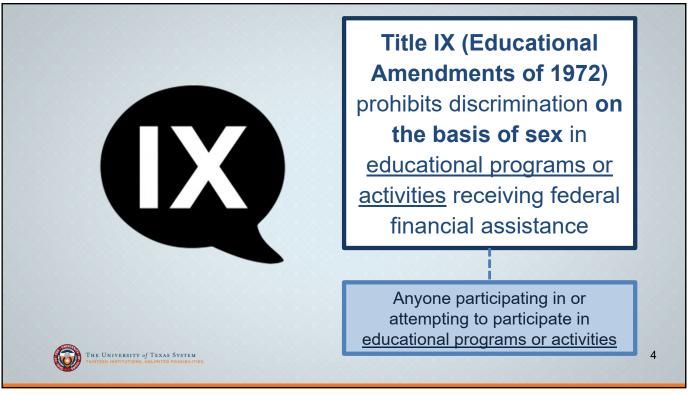


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"Education program or activity" under Title IX

Includes <u>locations</u>, <u>events</u>, <u>or</u> <u>circumstances</u> over which the institution exercises **substantial control** over both the respondent and the context in which the alleged sexual harassment occurs, and also includes <u>any building owned or controlled by a student organization</u> 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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Definition of "Sex Discrimination"

Occurs when an individual is <u>treated less</u> <u>favorably</u> on the basis of that person's <u>sex</u> (<u>including gender</u>), 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

<u>Employee</u> 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.



Source: Title IX Regulations (2020)

#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 10

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

- 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 <u>severe or</u> <u>pervasive</u> that it created a Hostile Environment, as defined in the Model Policy.
- 2. Physical conduct...



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.



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 <u>because</u> 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 <u>subject to disciplinary action</u> up to and including dismissal or separation from the University.



Source:

UT System Model Policy for Sexual Misconduct (2021)

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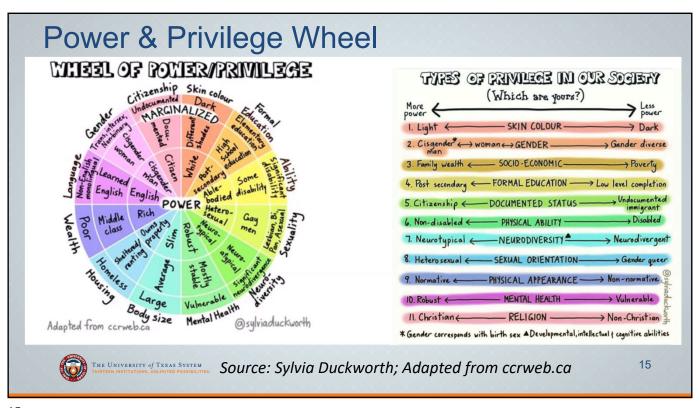
Intersectionality:

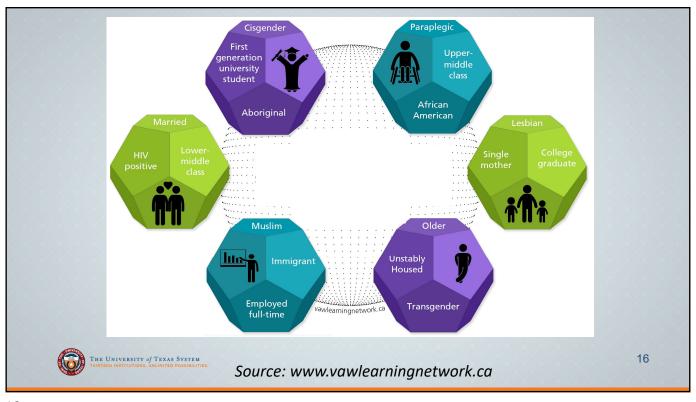
Interconnected nature of social categorizations such as race, class, and gender as they apply to a given individual or group.

Creates overlapping and independent systems of discrimination and disadvantage.



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





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.



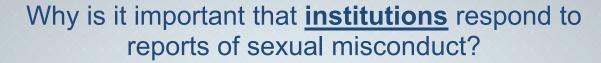
Source:

UT System Model Policy for Sexual Misconduct (2021)

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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)

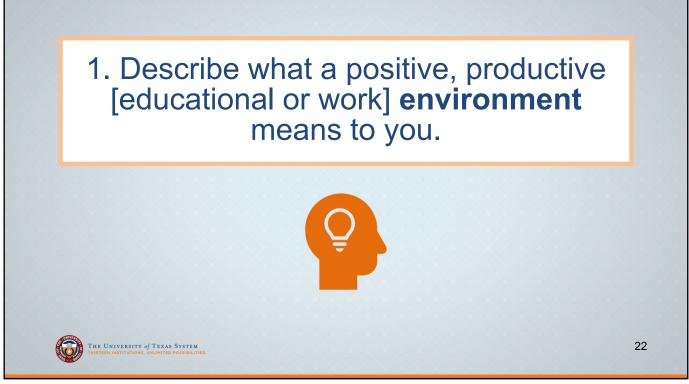


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Examples of a positive, productive environment



- ✓ 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



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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



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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 peoples' needs
- ✓ Use active listening

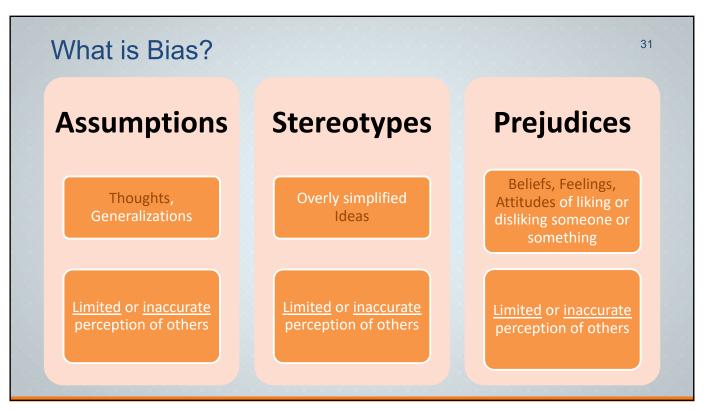
- ✓ Follow-through on your words & actions
- ✓ Be open-minded
- ✓ Assume good will
- ✓ Engagement & participation
- ✓ Ask for input from others
- ✓ Reassess & keep it up!

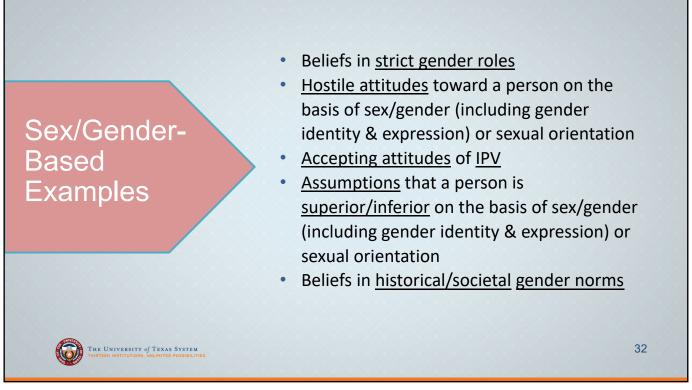


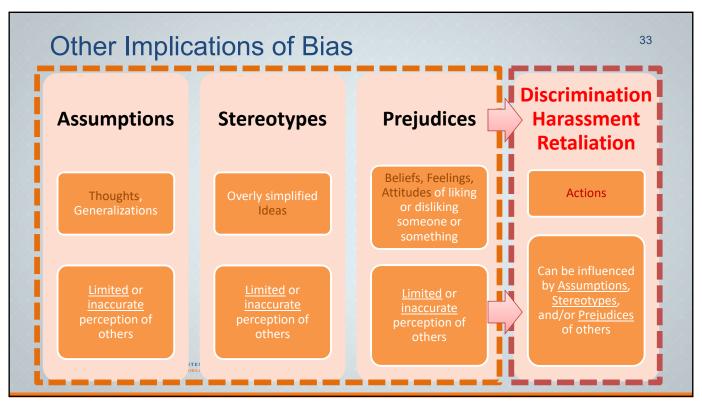
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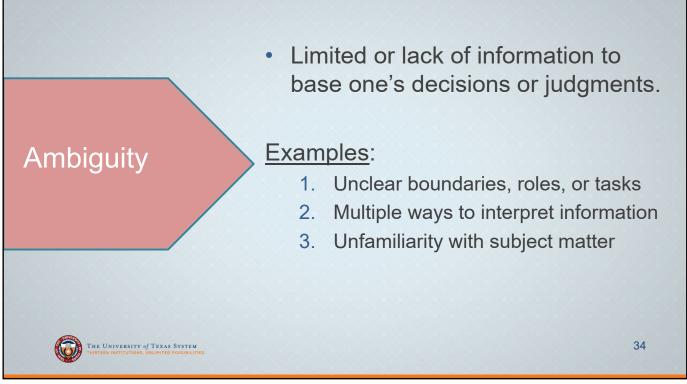
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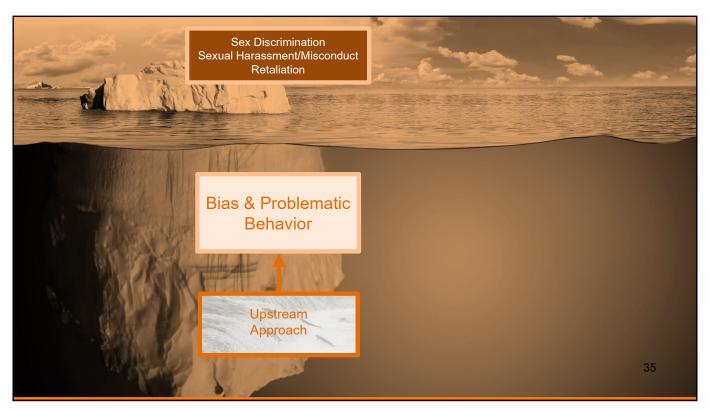


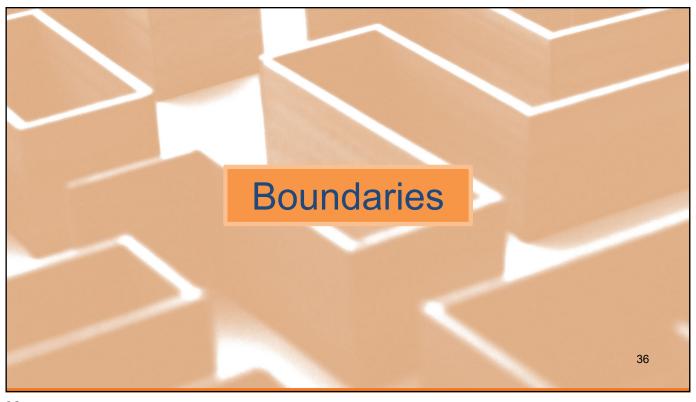


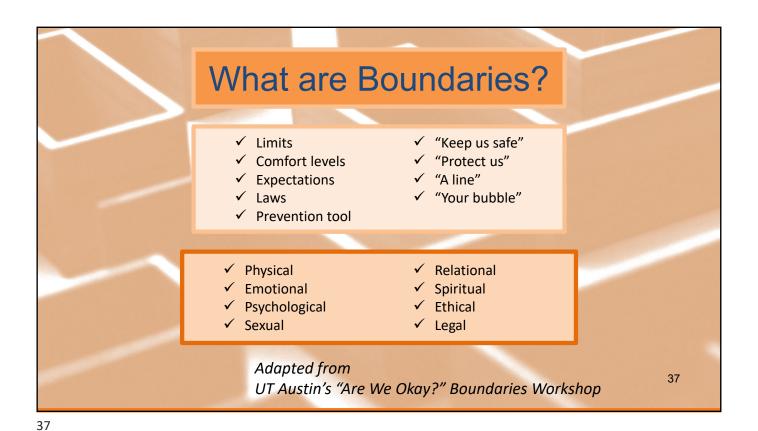








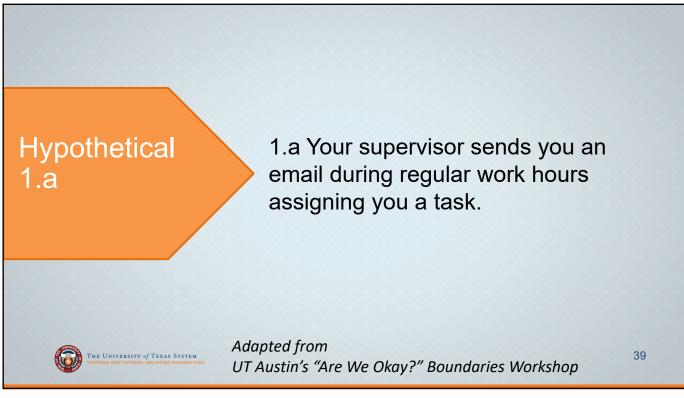


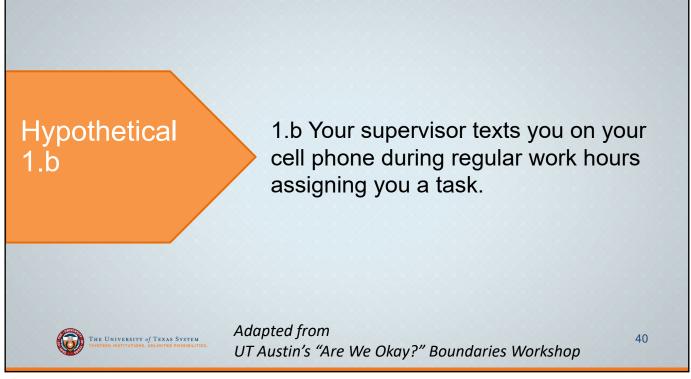


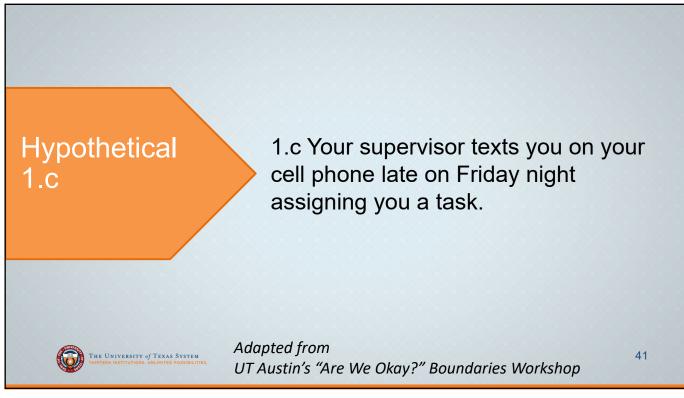
Stop-Light
Activity

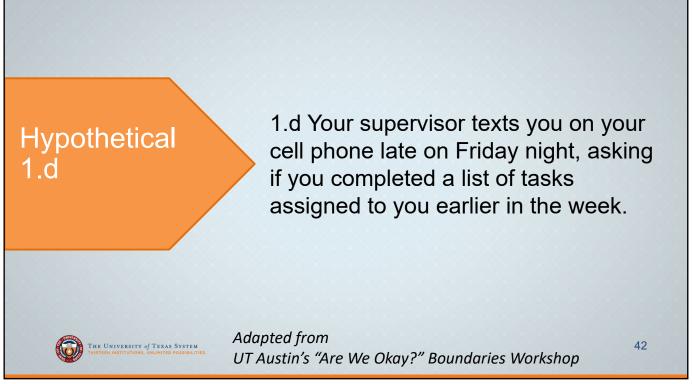
For each prompt:
(Green): Within your boundary
(Yellow): Unsure of your boundary
(Red): Outside your boundary

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









Hypothetical 1.e

1.e (Same as before) Your supervisor texts you on your cell phone late on Friday night, asking if you completed a list of tasks assigned to you earlier in the week... (New) Your supervisor texts again, saying it's urgent and the work must be completed before Monday morning.



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

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Hypothetical 2.a

2.a Before a staff meeting starts, your coworkers are casually chatting about what they did last weekend with family or friends.



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

Hypothetical 2.b

2.b (Same as before) Before a staff meeting starts, your coworkers are casually chatting about what they did last weekend with family or friends...

(New) A coworker turns to you and asks what you did last weekend.



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

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Hypothetical 2.c

2.c (Same as before) Before a staff meeting starts, your coworkers are casually chatting about what they did last weekend with family or friends... (New) A coworker says they went out

with some old college friends and "did some things I probably shouldn't have, if you know what a I mean."



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

Hypothetical 2.d

2.3 (Same as before) Before a staff meeting starts, your coworkers are casually chatting about what they did last weekend with family or friends. A coworker says they went out with some old college friends and "did some things I probably shouldn't have, if you know what a I mean."... (New) Another coworker asks you what's your best "partying" story.



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

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Debrief

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

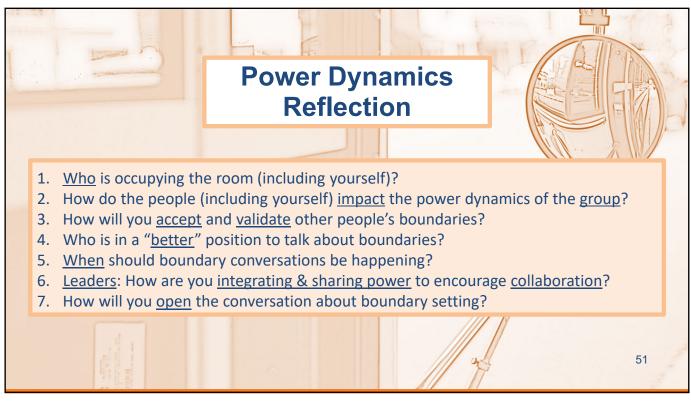
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Recognizing Power Dynamics

Explicit/Formal Examples	Implicit/Informal Examples
Supervisory roles	Education/Degrees
Hierarchal 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

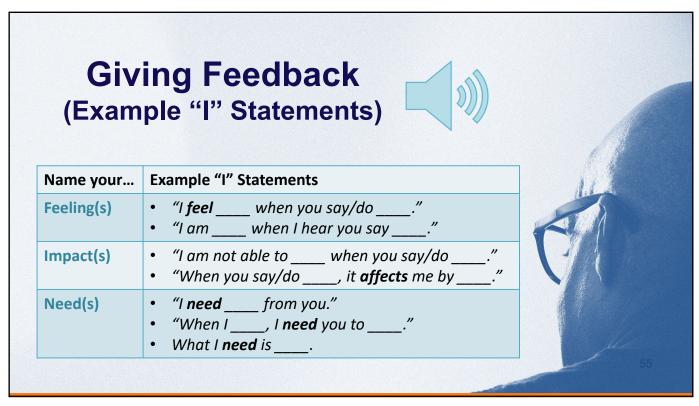


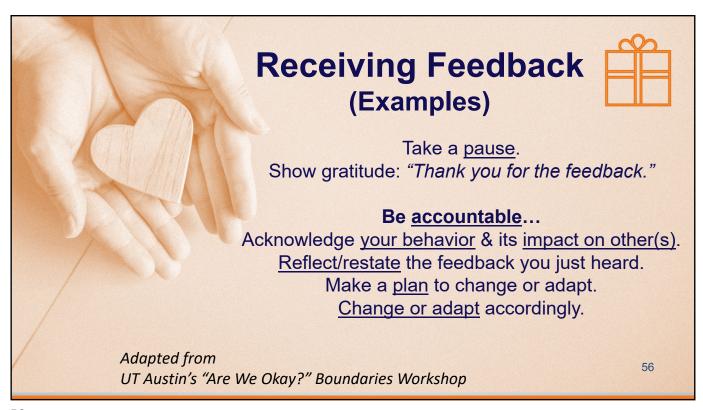




Examples of Communicating Boundaries				
Approaches	Example Prompts or Strategies			
Clarifying Check	 "Help me understand what [blank] means " "Help me understand what you meant by [blank repeat/paraphrase] " 			
Direct Verbal Cues ("I" Statements)	 "I feel when you say/do [or] I am when I hear you say" "I am not able to when you say/do" "When you say/do, it affects me by" 			
Redirect or Distract	Change the subjectRefocus to the main topic at hand			
Delegate	Ask someone else to help you or to get assistance			
Remove oneself from the situation	 Adjourn the meeting Take a time out or excuse yourself from the space 			
Non-verbal Cues	 Shake head, discontinue eye contact, or cross your arms Show "puzzling" or "turned-off" facial expression 			







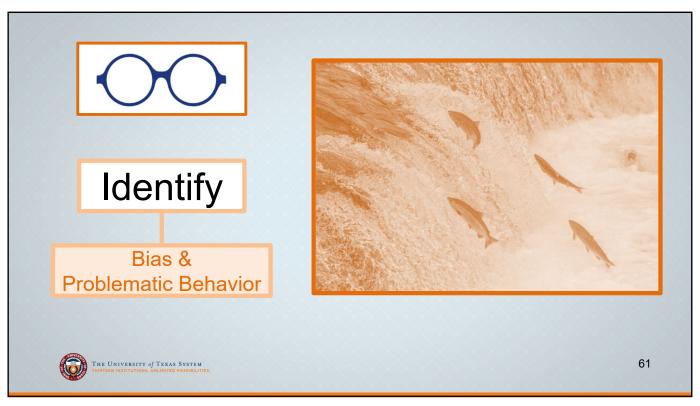
• Relying on the way information is presented when making judgments or decisions • Equivalent information can be more or less attractive depending on how the information is delivered Examples: 1. Presenting information through empirical research findings vs. a person's anecdotal personal experience or opinion 2. Providing feedback in an "angry, raised voice" vs. a "more-balanced emotional posture"

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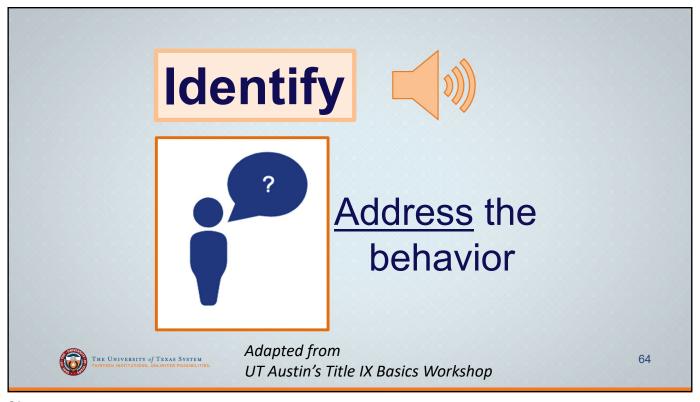




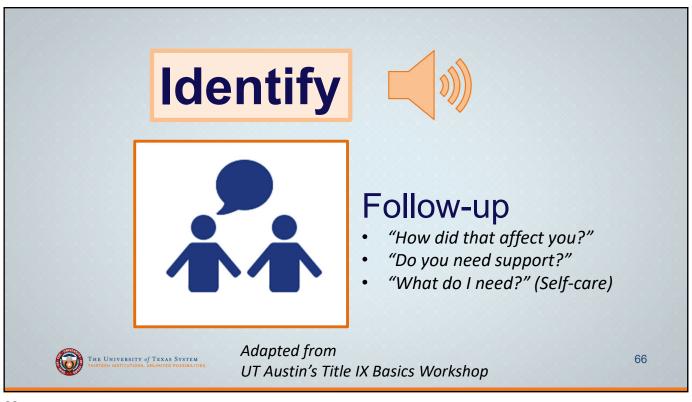






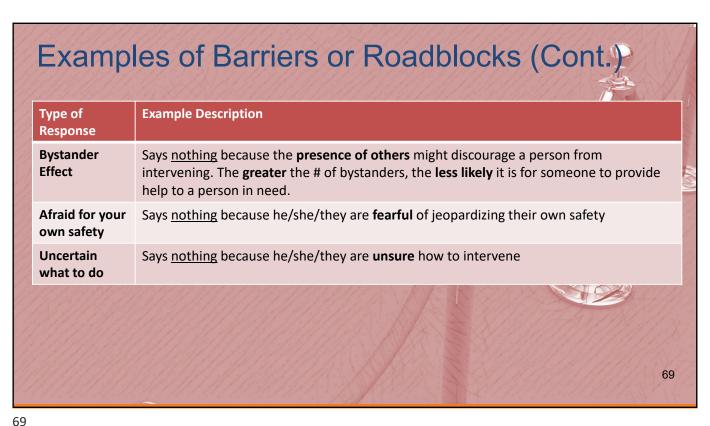


Examples of Addressing Behavior				
Approaches	Example Prompts or Strategies			
Clarifying Check	 "Help me understand what [blank] means " "Help me understand what you meant by [blank repeat/paraphrase] " 			
Direct Verbal Cues ("I" Statements)	 "I feel when you say/do [or] I am when I hear you say" "I am not able to when you say/do" "When you say/do" 			
Redirect or Distract	 Change the subject Refocus to the main topic at hand 			
Delegate	Ask someone else to help you or to get assistance			
Remove oneself from the situation	 Adjourn the meeting Take a time out or excuse yourself from the space 			
Non-verbal Cues	 Shake head, discontinue eye contact, or cross your arms Show "puzzling" or "turned-off" facial expression 			
THIRTEEN INSTITUTIONS. UI	LEADS STSTEM RUHITED POSSIBILITIES. 65			





Examples of Barriers or Roadblocks (Psychological Manipulation)				
Type of Response	Example Statements			
Dismissive	 I <u>never</u> said/did that. <u>Your</u> memory is bad. I don't remember it that way. 	 That didn't happen. [or] That's not what happened. I have no idea what you are talking about. 		
Minimizing	 It's <u>only</u> a joke. [or] It's not that bad. We're <u>just</u> having fun. 	Nobody got hurt.What's the big deal?		
Rationalizing or Making Excuses	 This wasn't ever an issue before now. I said/did because I didn't even know I did anything. I didn't mean it like that. 	 That's not how things used to be. No one else is saying anything. Others, even you, do the same thing too. 		
Attacking or Defensive	 You're too sensitive. [or] You're overreacting. You're petty. [or] You're jealous. You are taking it the wrong way. You think you are better than everyone else. You can't take a joke. This is why nobody likes you. 	 It's your fault because What about when you said/did? Why are you so emotional? You're letting your emotions get the better of you. Who told you that? What did they say? What do you have to back that up? 		







If You experience sexual harassment or other inappropriate sexual conduct...

Informal Assistance:

- <u>Students</u>: Student Ombuds, Victim Advocate Office, Counseling Center
- <u>Employees</u>: Faculty/Staff Ombuds, Human Resources, Employee Assistance Program

Formal Assistance:

Option to Report or file a Formal Complaint, in accordance with policy, to the Institution's Title IX Coordinator.

- Who, what, where, when, & how often?
- Identity witnesses, if any.
- What <u>remedy</u>, if any, are you seeking?

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Responsible Employee Reporting Requirements

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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 <u>all</u> 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
- Police officers when a victim uses a pseudonym form

Commonly designated "confidential" employees:

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



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Definition of "Failure to Report" for Responsible Employees

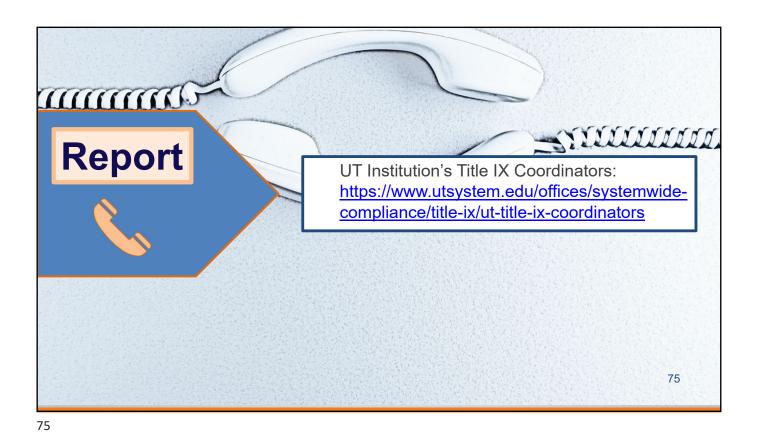
If a Responsible Employee knowingly fails to report all information concerning an incident the employee reasonably believes constitutes stalking, dating violence, sexual assault, or sexual harassment committed by or against a student or employee at the time of the incident, the employee is subject to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

Source:

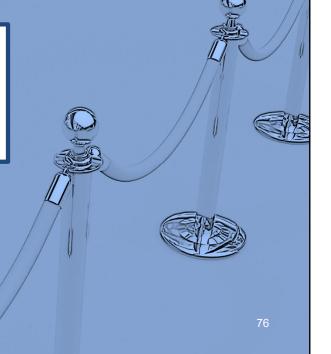


UT System Model Policy for Sexual Misconduct (2021); Tex. Edu. Code Section 51.252-51.259

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Challenges &
Barriers to
Accessing Support



Intersectionality (Revisited):

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

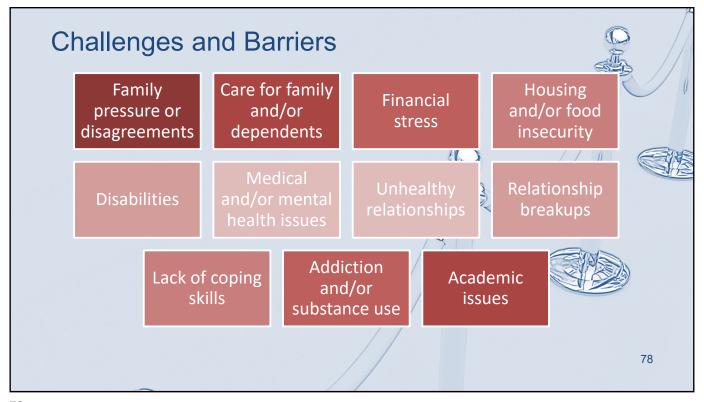
Creates overlapping and independent systems of discrimination and disadvantage.



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

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Intersectionality Considerations

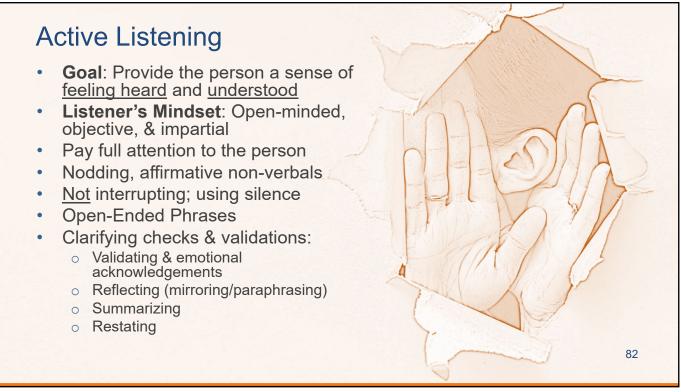
- In what ways, if any, have **specific challenges** (e.g. racism, heterosexism, ableism, etc.) affected a person's experiences?
- In what ways, if any, have a person's **communities, family, or friends** affected a person's decisions to (for example):
 - o Tell someone or report an incident
 - o End 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?

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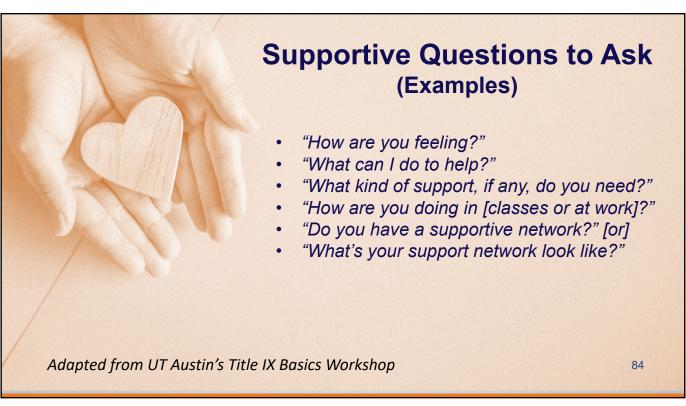
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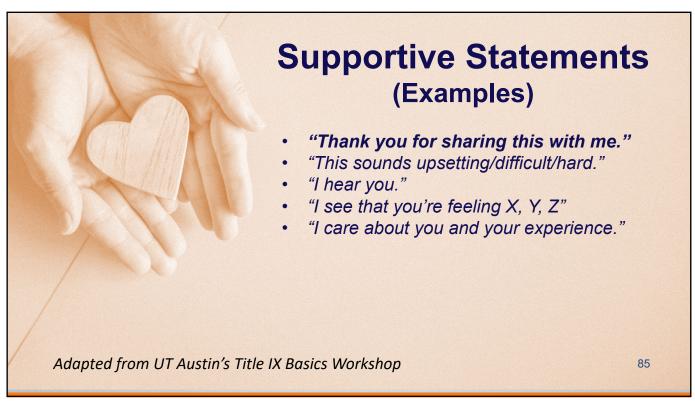




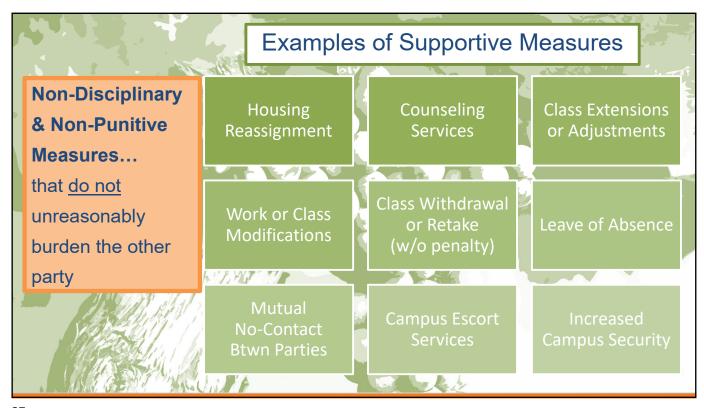


Active Listening: Examples 83				
Туре	Example Prompts			
Validating	• "That sounds difficult."	• "It's <u>okay</u> to feel upset."		
Emotional Acknowledge- ments	• "You seem <u>disappointed</u> right now."	• "Having to consider different options can be <u>stressful</u> to navigate."		
Reflecting	• "What I'm hearing is"	• "Sounds like you are saying"		
Summarizing or Restating	 "Let me summarize to check my understanding [Repeat back] Did I get that right? 	 "[Repeat/rephrase what the other person said]Is this what you mean?" 		
Open-Ended Phrases	 "Tell me more about" "Explain/describe"	 "What do you mean when you say?" "Help me understand"		
Affirmative Comm	• "Yes" • "I see."	 "Go on." "Right."		

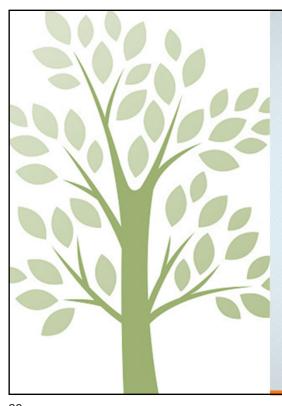




What NOT to Say or Do (Examples) Don't ask questions about the incident. Don't attempt to investigate on your own. Don't question the validity of the person's experience. Don't ask "Why/how did this happen?" Don't place blame. Don't promise outcomes. Don't promise accommodations that are out of your control. Don't share information related to the incident with...







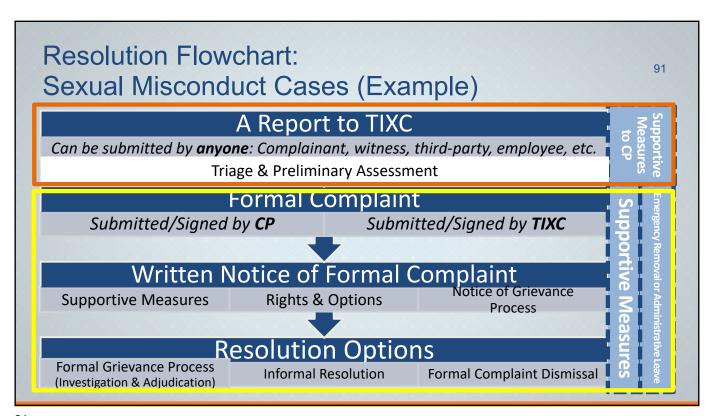
Campus Support Services, Resources, & Policies

UT Institution's Title IX Coordinators:
https://www.utsystem.edu/offices/systemwide-compliance/title-ix/ut-title-ix-coordinators

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Contact Information

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