

## Federal Definition

## State Definition

## University Policy

**Consent**

Uses the definition of the Jurisdiction. **Sexual Offenses against the victim without** victim's knowledge;

**consent of victim:** An act of sexual intercourse, rape, attempted rape, rape of a child,

attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

- 1) the victim expresses lack of consent through words or conduct;
- 2) the actor overcomes the victim through the actual application of physical force or violence;
- 3) the actor is able to overcome the victim through concealment or by the element of surprise;
- 4) (a)(i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or (ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat; (b) as used in this Subsection (4), "to retaliate" includes threats of physical force, kidnapping, or extortion;
- 5) the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;
- 6) the actor knows that as a result of mental disease or defect, or for any other reason the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;
- 7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;
- 8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the

9) the victim is younger than 14 years of age;  
 10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

Consent is affirmative and freely given permission to engage in sexual activity. A person can affirm consent, or lack of consent, through words or conduct. Consent can be withdrawn at any time, irrespective of the consent which may have been given previously. Silence or absence of resistance does not, necessarily, imply consent. A complainant has not consented when the complainant is under the age they can legally consent; unconscious; unaware that the act is occurring; physically unable to resist; overcome by force, violence, concealment or surprise; lacks the understanding to make rational decisions or engage in responsible actions due to alcohol or other drugs, or because the complainant is temporarily or permanently impaired by a disability.

Being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for sexual harassment and misconduct.

The University adopts other circumstances identified in Utah law as standards for determining consent as in Utah Code Ann. §76-5-406. However, criminal prosecution of offenses is subject only to standards in applicable law.

The University considers unconsented conduct as unwelcome conduct although consent, alone, does not, necessarily indicate that conduct was welcomed.

**(PPM 3-32 F)**

12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) "health professional" means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) "Religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

(76-5-406)

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**Domestic Violence**

A felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- By any other person against an adult or youth victim who is protected from that person's acts

under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**(VAWA)**  
Means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" also means commission or attempt to commit, any of the following offenses by one cohabitant against another:

- (a) Aggravated assault
- (b) Assault
- (c) Criminal Homicide

- (d) Harassment
- (e) Electronic communication harassment
- (f) Kidnapping, child kidnapping or agg. Kidnapping
- (g) Mayhem
- (h) Sexual offenses
- (i) Stalking
- (j) Unlawful detention or unlawful detention of a minor
- (k) Violation of a protective order
- (l) Offense against property
- (m) Possession of a deadly weapon with intent to assault
- (n) Discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle
- (o) Disorderly conduct

(p) Child Abuse  
**(77-36-1)**  
A felony or misdemeanor crime of violence committed against a complainant by: (i) a current or former spouse or intimate partner; (ii) a person with whom the complainant shares a child in common; (iii) a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner; (iv) a person similarly situated to a spouse of the complainant under applicable domestic or family violence laws; or (v) Any other person against an adult or youth victim whom the complainant is protected under applicable domestic and family violence laws.  
**(PPM 3-32 W.2)**

<p><b>Dating Violence</b></p>	<p>Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Includes, but is not limited to, sexual or physical abuse or the threat of such abuse. <b>(VAWA)</b></p>	<p>(a) Any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a dating partner of the person; or</p> <p>(b) Any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against a dating partner of the person. <b>(78B-7-402)</b></p>	<p>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 reporting party's statement with consideration of the length and type of relationship and the frequency of interaction with the persons involved in the relationship. It includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence. <b>PPM3-32 W.1</b></p>
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<p><b>Rape</b> The 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 the victim <b>(UCR)</b></p> <p>A person commits rape when the actor has sexual intercourse with another person without the victim's consent.</p> <p>(2) This section applies whether or not the actor is married to the victim.</p> <p>(3) Rape is a felony of the first degree, punishable by a term of imprisonment of: (a) except as provided in Subsection (3)(b) or (c), not less than five years and</p>	<p>which may be for life; (b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if the trier of fact finds that: (i) during the course of the commission of the rape the defendant caused serious bodily injury to another; or (ii) at the time of the commission of the rape, the defendant was younger than 18 years of age and was previously convicted of a grievous sexual offense; or (c) life without parole, if the trier of fact finds that at the time of the commission of the rape the defendant was previously convicted of a grievous sexual offense.</p> <p>(4) If , when imposing a sentence under Subsection (3)(6), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of</p>	<p>justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than: (a) 10 years and which may be for life; or (b) six years and which may be for life. (5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(a) or (c).(6) Imprisonment under Subsection (3)(6), (3)(c), or (4) is mandatory in accordance with Section 76-3-406 <b>{76-5-402}</b></p> <p>The 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 consent of the complainant. <b>(PPM 3-32 W.5)</b></p>

<p><b>Fondling</b></p>	<p>The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual</p>	<p><i>NI A</i></p>	<p>The touching of the private body parts of another person for the purpose of sexual gratification and without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because their temporary or permanent mental incapacity. <b>(PPM 3-32 W.4)</b></p>
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	gratification, or sexual humiliation. <b>(UCR)</b>		
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<p><b>Hazing</b></p>	<p>Any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that—</p> <p>“(I) is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and</p> <p>“(II) causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including—</p> <p>“(aa) whipping, beating, striking, electronic shocking, placing of a harmful substance on someone’s body, or similar activity;</p> <p>“(bb) causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;</p> <p>“(cc) causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;</p> <p>“(dd) causing, coercing, or otherwise inducing another person to perform sexual acts;</p> <p>“(ee) any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;</p> <p>“(ff) any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and</p> <p>“(gg) any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law.”</p>	<p>An actor commits hazing if the actor intentionally, knowingly, or recklessly commits an act or causes another to commit an act that:</p> <p>(a)</p> <p>(i) endangers the mental or physical health or safety of an individual;</p> <p>(ii) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;</p> <p>(iii) involves consumption of any food, alcoholic product, drug, or other substance or any other physical activity that endangers the mental or physical health and safety of an individual; or</p> <p>(iv) involves any activity that would subject the individual to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects another to extreme embarrassment, shame, or humiliation;</p> <p>and (b)</p> <p>(i) is for the purpose of initiation, admission into, affiliation with, holding office in, or as a condition for continued membership in any organization; or (ii) if the actor knew that the individual is a member of or candidate for membership with a school team or school organization to which the actor belongs or did belong within the preceding two years.</p> <p>Utah Code 76-5-107.5</p>	<p>Intentionally, knowingly, or recklessly engaging in an act, or causing or participating with another to commit an act, that causes or creates a risk, above the reasonable risk encountered in the course of participation in University or organization activities, of the physical or psychological injury of another, regardless of that person’s willingness to participate, and that is committed in connection with an initiation into, affiliation with, or maintenance of membership in any organization, team, society, or association. Hazing also includes acts described in 20 USC §1092(f)(6)(vi) (as defined in PPM 5-36, Appendix A) or Utah Code Ann. 76-5-107.5(2). Hazing may be further defined in University handbooks or rules applicable to specific student activities.</p> <p>PPM 6-22, 3.12</p>
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**Sexual Assault**

As defined at 20 U.S.C. 1092(f)(6)(A)(v) and the uniform crime reporting system of the Federal Bureau of Investigation, sexual assault means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also, unlawful sexual intercourse, including the following:

**Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of the victim's age or because of the victim's temporary or permanent mental incapacity.

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

**Statutory Rape** is sexual intercourse

**Rape** is the 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 the victim.

with a person who is under the statutory age of consent (**UCR Sexual Assault: N/A**)  
**Rape:** A person commits rape when the actor has sexual intercourse with another person without the victim's consent. (**Utah Code**)

**Fondling: N/A**

**Incest** occurs, under circumstances not amounting to rape, rape of a child, or aggravated sexual assault, when the actor knowingly and intentionally engages in sexual intercourse between the actor and a person the actor knows

has kinship to the actor as a related person; or the insertion or placement of the provider's seminal fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse; or provides or makes available his seminal fluid for the purpose of insertion or placement of the fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse. (**Utah Code**)

**Statutory Rape** occurs when the person has sexual intercourse with a child who is under the age of 14. (**Utah Code**)

**Same as Federal Definition.**

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**Stalking** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

**Course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

**Reasonable person** means a reasonable person under similar circumstances and with similar identities to the victim.

**Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. (**VAWA**)

Engaging in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person: (a) to fear for the person's own safety or the safety of a third person; or (b) to suffer other emotional distress. (**Utah Code**)

A person is also guilty of stalking who intentionally or knowingly violates: (a) a stalking injunction issued pursuant to Title 77, Chapter 3a, or (b) a permanent criminal stalking injunction issued pursuant to this section.

**Course of Conduct** means two or more acts directed at or toward a specific person, including; acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property: (a) directly, indirectly, or through any third party; and (b) by any action, method, device, or means; or when the actor engages in any of the following acts or causes someone else to engage in any of these acts; (a) approaches or confronts a person; (b) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person; (d) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the

person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person; (e) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or (f) uses a computer, the internet, text messages, or any other electronic means to commit an act that is a part of the course of conduct.

**Reasonable person** means a reasonable person in the victims circumstances

**Emotional distress** means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required. (**76-5-106**)

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of a third person, or to suffer substantial emotional distress. A "course of conduct" means two or more acts, including, but not limited to, acts which the stalker

directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the complainant. This definition of stalking is also the definition under Utah criminal law.

**(PPM 3-32 W.8)**