



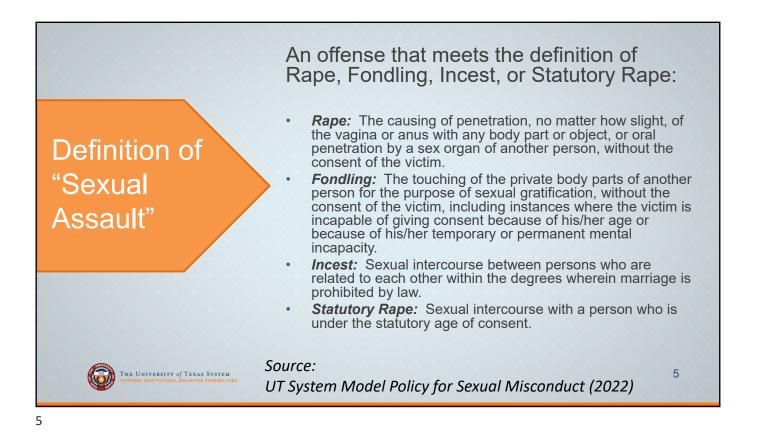


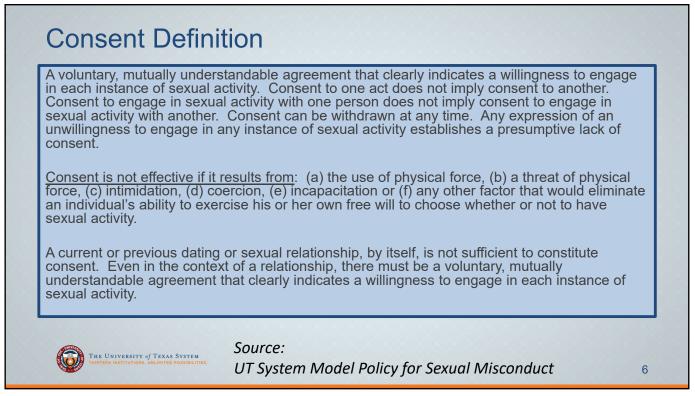
Disclaimers & Notes about this Training

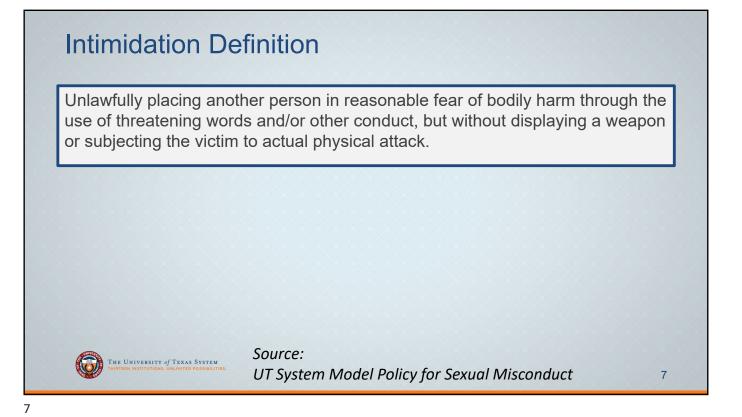
- **Content Warning**: The content of this training may contain sexually explicit hypothetical scenarios of sexual assault, sexual exploitation, non-consensual sexual contact, and/or other inappropriate sexual conduct.
- Policy Differences: For the purposes of this training, the UTS Model Policy for Sexual Misconduct will be the primary policy reference. UT Institutional policies may have some differences.
- **Gender/Sex**: Sexual assault may be committed by people of any gender category and victims of sexual assault may members of any gender category. Hypotheticals are gender neutral.

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Coercion Definition

The use of unreasonable pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail that causes the person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they eliminate a reasonable person's freedom of will and ability to choose whether or not to engage in sexual activity.



Source: UT System Model Policy for Sexual Misconduct (2022)

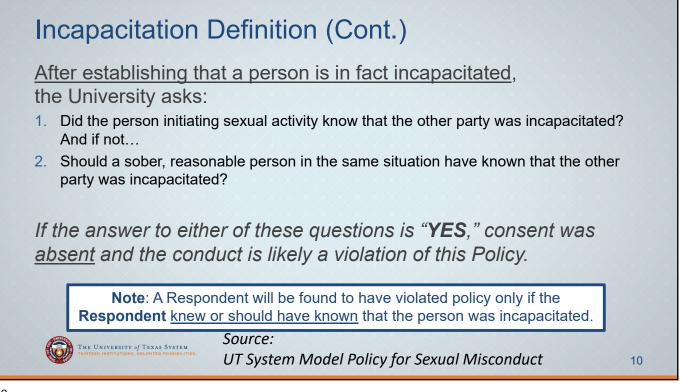
Incapacitation Definition

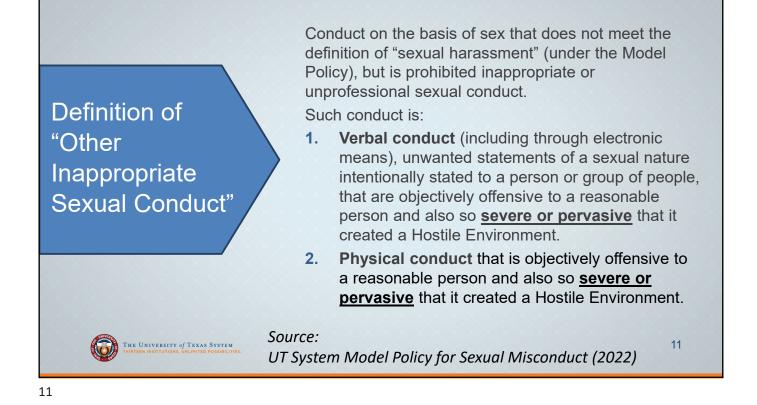
Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. An individual may be incapacitated if they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in a sexual interaction.

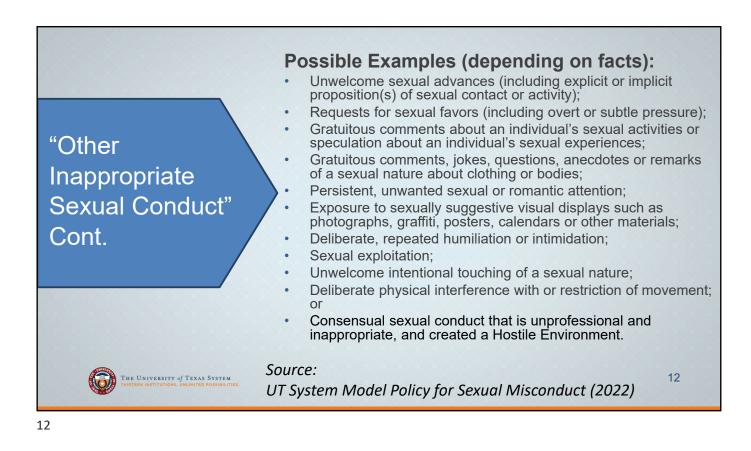
When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated requires an individualized determination.

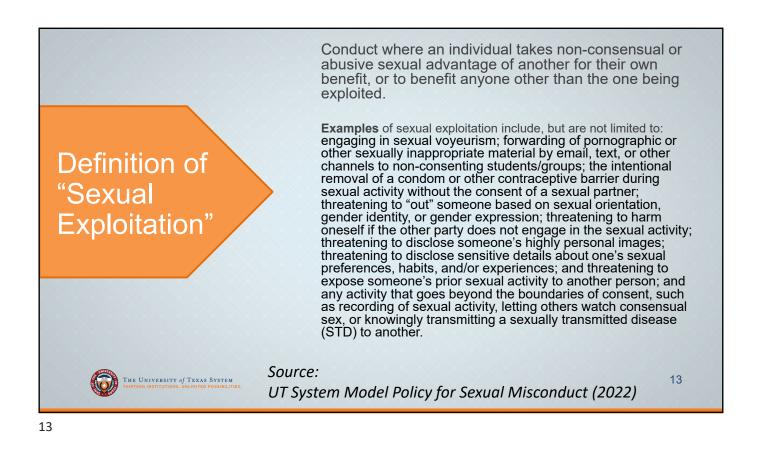


Source: UT System Model Policy for Sexual Misconduct











Participant Goals

- Primary goal: Based on the information provided in each hypothetical scenario, make a determination as to whether or not the preponderance of the evidence is met for a policy violation (if applicable).
- Secondary goal: Identify the types of questions you would ask during the investigation or in a live hearing to understand the situation further and/or seek clarity?

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Hypothetical Scenario 1

Complainant and Respondent are both students and meet for the first time at an off-campus party. They both consume alcohol "heavily" throughout the evening.

CP & RP start kissing and "making out" at the party. Then, CP & RP walk to CP's apartment. At the apartment, CP states *"I don't want sex"* but says *"I'm fine 'playing around' a little."* Then, CP & RP undress their own clothes and begin kissing and touching each other's bodies on CP's bed. RP penetrates CP with RP's fingers. CP shakes head from side to side and whispers *"no no no"* in a quiet but audible voice. RP does not stop immediately.

CP files a Formal Complaint and states that RP "sexually assaulted" CP.

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| in each instance of sexual ac Consent to engage in sexual | tandable agreement that clearly indicates a willingness to engage ctivity. Consent to one act does not imply consent to another. activity with one person does not imply consent to engage in Consent can be withdrawn at any time. Any expression of an |
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| unwillingness to engage in a consent. | ny instance of sexual activity establishes a presumptive lack of |
| <u>Consent is not effective if it reforce</u> , (c) intimidation, (d) coe an individual's ability to exercise sexual activity. | esults from: (a) the use of physical force, (b) a threat of physical ercion, (e) incapacitation or (f) any other factor that would eliminate cise his or her own free will to choose whether or not to have |
| consent. Even in the context | or sexual relationship, by itself, is not sufficient to constitute t of a relationship, there must be a voluntary, mutually hat clearly indicates a willingness to engage in each instance of |
| THE UNIVERSITY of TEXAS SYSTEM THATEEN INSTITUTIONS, UNLIMITED POSSIBILITIES. | Source: UT System Model Policy for Sexual Misconduct (2021) 17 |

Complainant and Respondent are both students in a sexual relationship for about 5 months and both describe the relationship as *"friends with benefits."* Generally each week, either the CP or RP will text the other person to see if the other wants to *"hook up."* "Hooking up" usually consists of (a) watching some television together and making small talk; and (b) at some point, one person initiates kissing and sex. Once during the first month, CP & RP had penetrative intercourse. Other than that, all of the sexual contact has been oral.

On the night of the incident, CP invites RP to CP's apartment. CP states that CP intended that they would each perform oral sex on each other just like they had multiple times. When RP arrives at CP's apartment, neither person exchanges any words. Instead, CP and RP begin kissing. CP begins performing oral sex on RP. RP then penetrates CP with RP's penis. CP states that when RP penetrated CP, CP *"froze"* and did not know what to do. CP states that the penetration was not consensual.

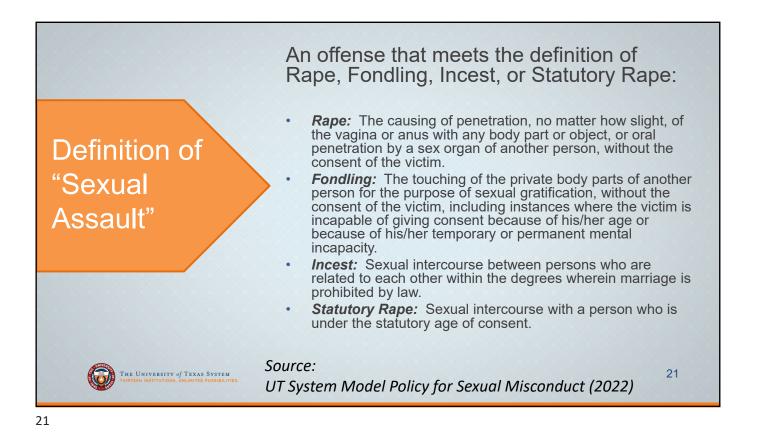
CP files a Formal Complaint and states that the penetration on that night lacked any *"consent."* CP cites materials from a campus advocacy organization that states that consent must be verbal and that there must be consent for each sexual act. The next day, RP files a Formal Complaint and states that if the penetration was "not consensual," neither was the oral sex CP performed on RP. Therefore, RP asserts *RP "was the victim of sexual assault" by CP*.

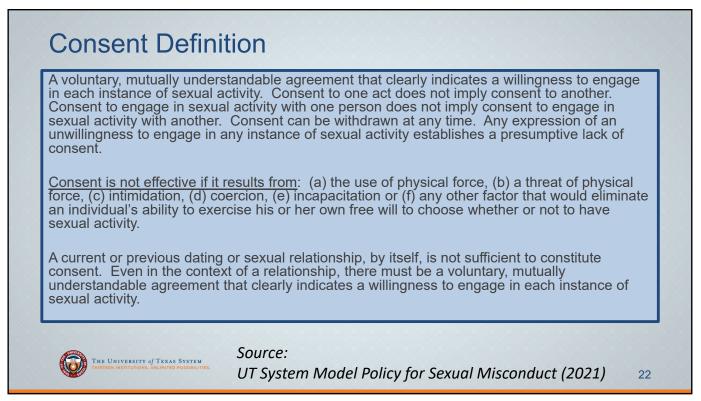
| Consent Definit | tion |
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| Consent to engage in sexua sexual activity with another. | tandable agreement that clearly indicates a willingness to engage ctivity. Consent to one act does not imply consent to another. I activity with one person does not imply consent to engage in Consent can be withdrawn at any time. Any expression of an iny instance of sexual activity establishes a presumptive lack of |
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| THE UNIVERSITY of TEXAS System THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES. | Source: UT System Model Policy for Sexual Misconduct (2021) 19 |

CP & RP meet at a party and realize they live in the same apartment complex. CP & RP each drink about 4-5 drinks over about 4 hours while at the party. When the party ends, RP offers to share an Uber-ride home from downtown. During the Uber-ride, CP & RP kiss. Then, CP texts a friend that CP met a *"hot"* person at a party and is *"totally going to hook up."*

Once at the apartment complex, RP asks CP if CP wants to have sex; CP shakes CP's head up and down and kisses RP. CP & RP walk to RP's apartment mutually holding hands, and immediately walk to RP's bedroom. When RP & CP get to the bed, they undress themselves and RP penetrates CP. At the same time, RP begins engaging in "rough sex" (slapping CP). CP was silent during the entire sexual activity, and leaves RP's apartment afterwards.

CP files a Formal Complaint and states that RP "sexually assaulted" CP, explaining that CP was scared once the "rough sex" began. CP states "I consented to sex, but *not <u>'rough sex</u>*."





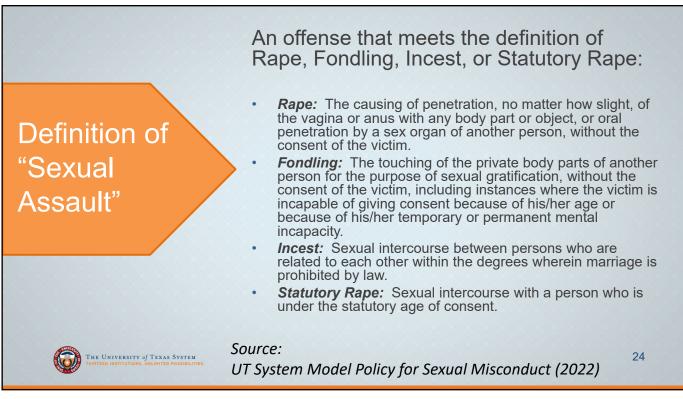
Complainant and Respondent are both Ph.D. students in their early 30s, married to each other. CP does not want to have children. RP does want children. For years, RP has taken birth control pills and CP knows this. RP decides she wants to get pregnant even if CP does not want children; RP decides to stop taking birth control pills.

CP & RP engage in vaginal intercourse throughout the next two months. Each time, the two discuss whether to have sex and each says "Yes, I want to have sex" before any sexual activity occurs. Then, RP becomes pregnant. When CP finds out about the pregnancy, RP confesses that she intentionally stopped taking birth control pills to get pregnant and says that she assumed once she was pregnant CP would share the excitement and decide that he wants a child. CP initiates a separation and files for divorce.

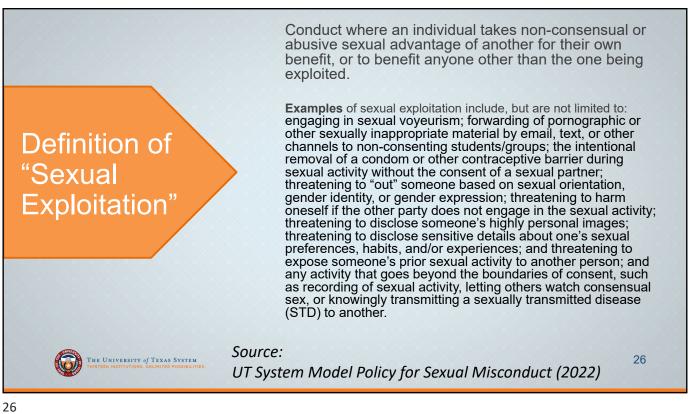
CP files a Formal Complaint and says he was "sexual assaulted" because "the sex was not consensual." He states that he verbally consented to "protected sex, **not** <u>unprotected</u> sex."



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| <u>Consent is not effective if it results from</u> : (a) the use of physical force, (b force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other fac an individual's ability to exercise his or her own free will to choose wheth | |
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| A current or previous dating or sexual relationship, by itself, is not sufficient consent. Even in the context of a relationship, there must be a voluntary understandable agreement that clearly indicates a willingness to engage sexual activity. | r, mutually |



Chorey has a date with Robbie. Chorey is sexually inexperienced and wants to have sex with Robbie. But Chorey is very nervous and does not feel confident in their own ability to "*do things right*." Chorey has a few drinks at home before meeting Robbie at a restaurant. Chorey posts on social media that Chorey has a date and is nervous so Chorey is having a few drinks to "*take the edge off*" and "*relax*" before the date. Later that evening, they engage in penetration.

The next day, Robbie sees the social media posts and worries that perhaps Chorey was incapable of giving consent because Robbie knows that alcohol can sometimes lower a person's inhibitions. Robbie also remembers the message from a presentation Robbie once attended: "*An intoxicated person cannot consent*." Was Chorey incapacitated?



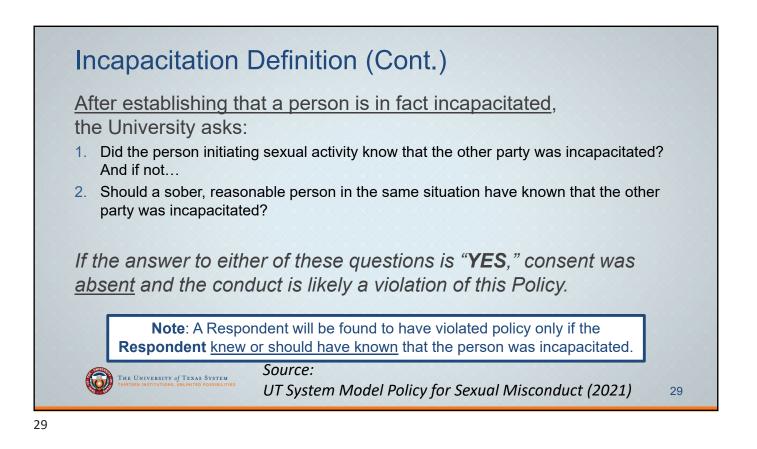
Incapacitation Definition

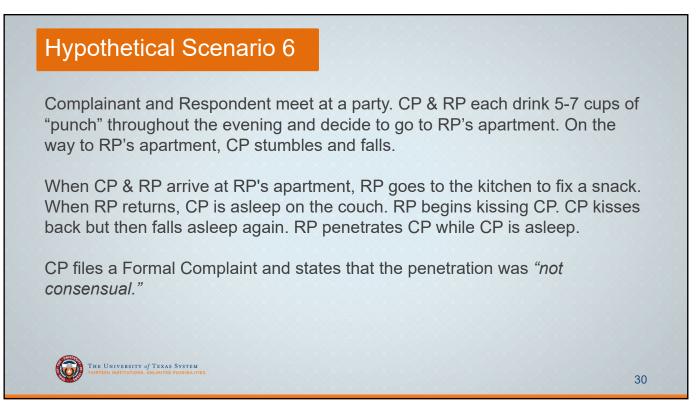
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Source: UT System Model Policy for Sexual Misconduct (2021)





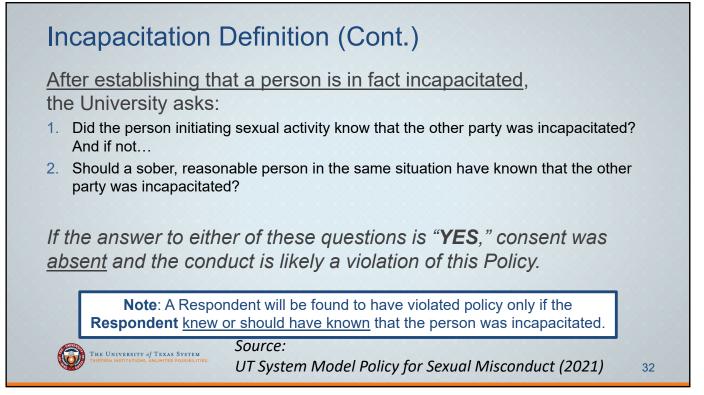
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Source: UT System Model Policy for Sexual Misconduct (2021) 31



Complainant and Respondent meet at a party. They each drink 5-7 drinks throughout the evening. CP's friends state that CP was acting "*drunk*" and was "*loud*" and "*laughing a lot*." They decide to go to RP's apartment. On the way to RP's apartment, CP vomits.

When they arrive at the apartment, RP begins kissing CP while they sit on the couch, and CP kisses back. CP gets on top of RP and begins undressing RP while kissing. CP then asks RP if they can go to RP's bed. RP responds, *"Yes."* CP & RP have sex.

CP files a Formal Complaint and states that the sex was *"not consensual."* CP has *"little memory of the event"* but does remember asking RP to have sex and RP's response.



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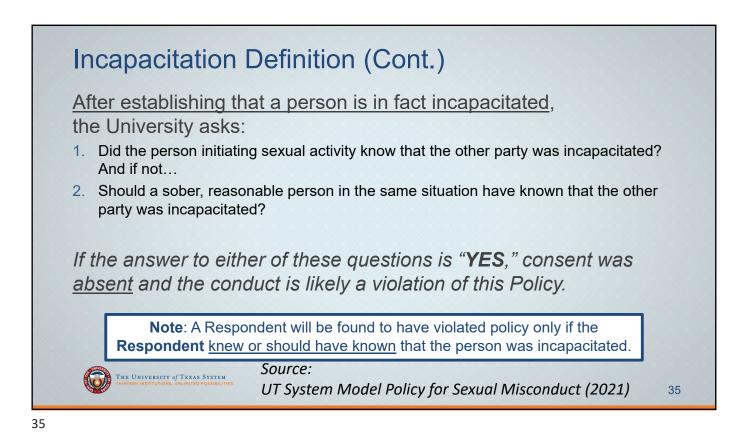
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Complainant and Respondent meet at a party and spend a lot of time talking and laughing. CP recalls drinking 5 cups of "punch." CP vomits at the party. When the party ends, CP orders an Uber-ride home. CP gets into the Uber car and the car begins its trip. While in the Uber car on the way to CP's apartment, there is road construction that confuses the Uber driver. CP directs the driver around the construction to get home using an alternative route. Then, one mile away from CP's apartment, CP receives a text from RP where RP invites CP to RP's apartment and provides an address. RP states that RP "*really enjoyed talking with [CP] and would like to spend some more time together.*" When CP tells the Uber driver that CP wants to go to a different address, the driver tells the CP that CP must tell the Uber app what the new address is. CP does so and texts RP when the car gets close to the Main Street address, texting, "In Uber, turning on Mains Street."

According to RP, at RP's apartment, RP asked CP to have sex and CP said "Yes." CP, however, does not remember anything after vomiting at the party. The next morning, CP dresses and leaves before RP wakes up. When CP gets home, CP texts RP, asking what happened. RP explained *"We had sex."* CP states that *"if we had sex, it was not consensual."* CP files a Formal Complaint.

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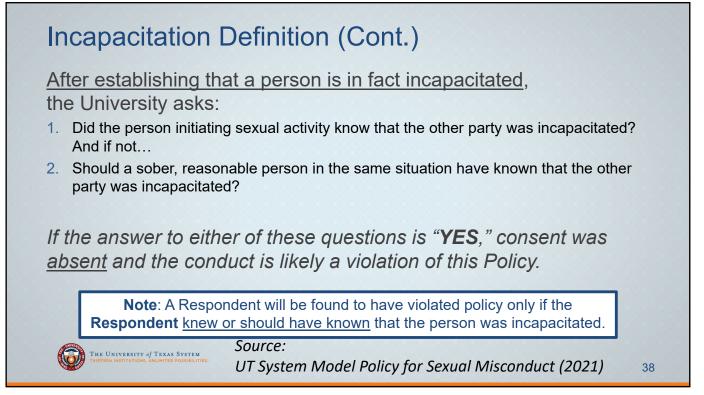
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Hypothetical Scenario 9

Complainant and Respondent meet at a party and drink *"heavily"* throughout the evening. CP & RP talk about going back to RP's apartment.

Once at RP's apartment, RP asks if CP wants to have sex and CP *says "No, I just want to go to bed. But let's cuddle."* CP & RP go to sleep in RP's bed, a twin mattress.

In the morning, CP awakes and finds an asleep RP *"spooning"* CP's body. One of RP's hands is touching CP's breast and RP has an erection that is pressing against CP's body.

CP believes CP is a victim of sexual assault and files a Formal Complaint.

THE UNIVERSITY OF TEXAS SYSTEM THIRTEEN INSTITUTIONS. UNLIMITED POSSIBILITI

An offense that meets the definition of Rape, Fondling, Incest, or Statutory Rape: Rape: The causing of penetration, no matter how slight, of the vagina or anus with any body part or object, or oral **Definition of** penetration by a sex organ of another person, without the consent of the victim. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the Sexual consent of the victim, including instances where the victim is Assault" incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. Source: 40 THE UNIVERSITY of TEXAS SYSTEM UT System Model Policy for Sexual Misconduct (2022)

Complainant and Respondent have two classes together and each has been staring at the other during class. However, CP & RP first "meet" at a party. CP & RP each drink 3 drinks throughout the evening and spend most of the night talking to each other. After the party, CP & RP return to RP's apartment.

CP and RP begin to kiss and *"make out,"* and RP quickly escalates things by undressing CP. CP does not want to have sex but is genuinely interested in perhaps having a relationship with RP. At that moment, if you asked CP if CP wanted to have sex of any kind with RP, CP would respond "No." However, in RP's apartment *"making out"* and unclothed, CP felt pressure to please RP and offered to perform oral sex on RP. CP stated that RP is *"larger"* than CP, and CP was afraid of what RP would do if CP did not *"give RP what RP wanted."*

CP filed a Formal Complaint, stating *"I was too intoxicated to perform oral sex, and was coerced."* RP is surprised by the complaint because RP believed the oral sex was consensual.



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Complainant and Respondent have been in a romantic/sexual relationship for two years and live together off-campus. RP usually initiates sexual activity with CP and generally wants to have sex more frequently than CP. Recently, CP has not been feeling like having sex at all. One evening, RP suggests that CP & RP have sex. CP states a lack of desire. RP persists and states that CP's frequent rejections (especially as of late) *"hurt"* RP and RP states that RP wants to have sex because RP *"feels a deep connection through sex."*

CP hears this and although CP later states *"I did not want to have sex,"* CP reluctantly agreed but only because CP says *"I was coerced"* by RP. In CP's Formal Complaint, CP writes, *"No' means 'no.' When I said 'no,' that was not an invitation to convince me."*



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Contact Information

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