

2020 Annual Title IX Training Series

**Dating & Domestic Violence, and Stalking
under EO 1096/1097 and Addendum B
October 21, 2020**

Systemwide Title IX Compliance
Office of the Chancellor
The California State University

Dating Violence

EO 1096/1097

Abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.

This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website.

For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self or another. Abuse does not include non-physical, emotional distress or injury.

Addendum B

Physical violence or threat of physical violence committed by a person—

- a) who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- b) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship.
 - The frequency of interaction between the persons involved in the relationship.

Elements of Dating Violence - EO 1096/1097 and Addendum A

1. Did Respondent intentionally or recklessly cause bodily injury to Complainant?

OR

2. Did Respondent attempt to cause bodily injury to Complainant?

OR

3. Did Respondent place Complainant in reasonable apprehension of imminent serious bodily injury to self or another?

Note: Abuse under this definition does not include non-physical, emotional₄ distress or injury.

Elements of Dating Violence - EO 1096/1097 and Addendum A

AND (required for 1, 2 and 3 on previous slide)

Are Complainant and Respondent in or have they been in a social or dating relationship of a romantic or intimate nature?

This may include Complainant and Respondent having just met; i.e., at a party, introduced through a friend, or on a social networking website. Abuse does not include non-physical, emotional distress or injury.

Intentional vs. Reckless

Intentional

Done on purpose; deliberate

Example: During an argument, Respondent punches Complainant in the face, breaking their nose

Reckless

(Of a person or their actions) without thinking or caring about the consequences of an action

During an argument, Respondent throws their cell phone in the direction of the Complainant. The cellphone hits the Complainant's cheek leaving a bruise.

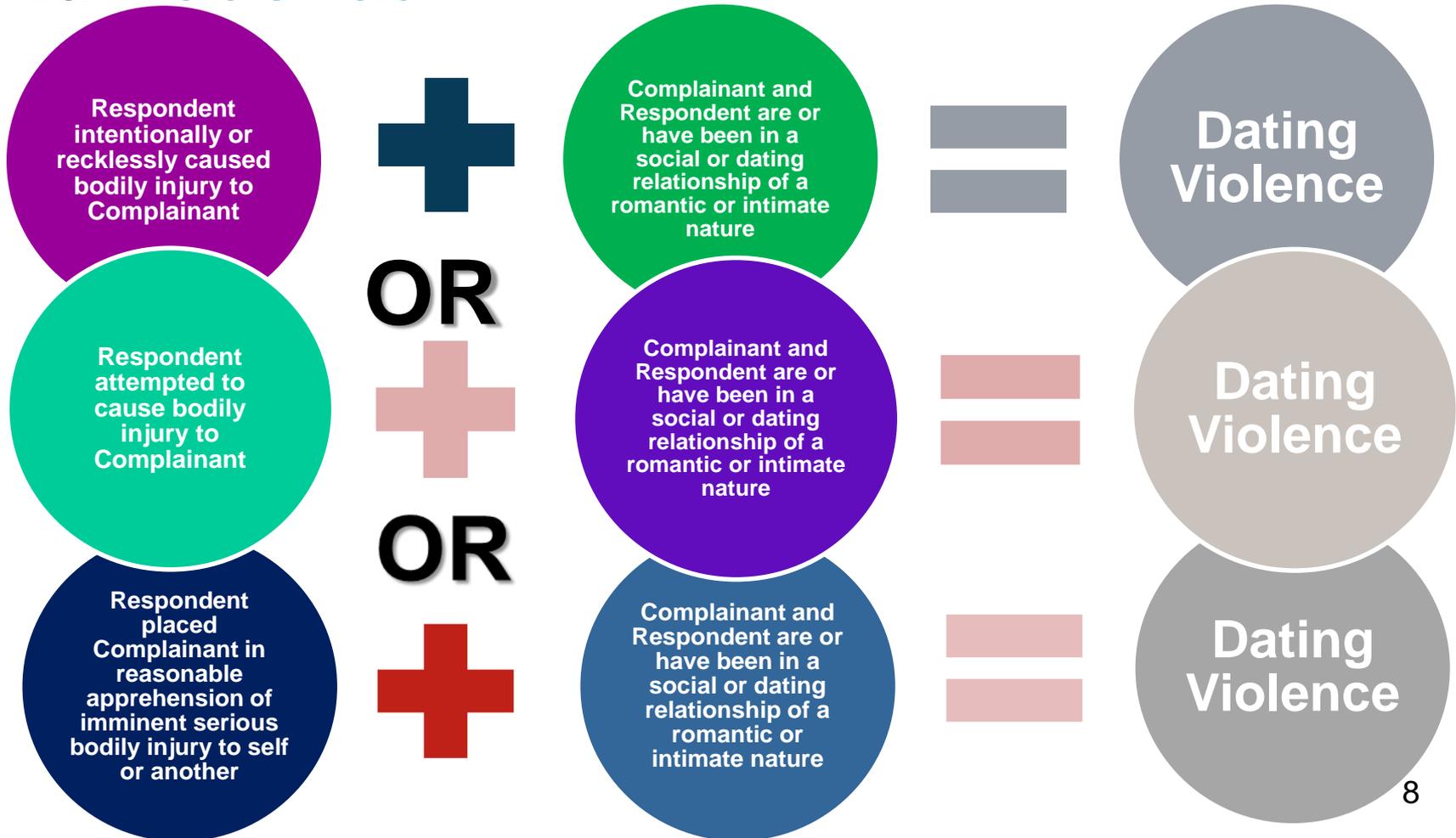
Bodily Injury

Any damage to a person's physical condition including pain or illness ⁶

Elements of Dating Violence – Addendum B

1. Did Respondent engage in physical violence or threat of physical violence against Complainant?
AND
2. Are Complainant and Respondent in or have they been in a social relationship of a romantic or intimate nature? The existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship

Elements of Dating Violence - EO 1096/1097 and Addendum A



Elements of Dating Violence - Addendum B



Domestic Violence

EO 1096/1097

Abuse committed against someone who is:

- a current or former spouse;
- current or former cohabitant;
- someone with whom the Respondent has a child;
- someone with whom the Respondent has or had a dating or engagement relationship; or
- a person similarly situated under California domestic or family violence law.

Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

(1) sexual relations between the Parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the Parties hold themselves out as spouses; (5) the continuity of the relationship; and, (6) the length of the relationship.

For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another. Abuse does not include non-physical, emotional distress or injury.

Addendum B

Physical violence or threat of physical violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant.

Elements of Domestic Violence - EO 1096/1097 and Addendum A

1. Did Respondent intentionally or recklessly cause bodily injury to Complainant?

OR

2. Did Respondent attempt to cause bodily injury to Complainant?

OR

3. Did Respondent place Complainant in reasonable apprehension of imminent serious bodily injury to self or another?

Note: Abuse under this definition does not include non-physical, emotional distress or injury.

Elements of Domestic Violence - EO 1096/1097 and Addendum A

AND (required for 1, 2 and 3 on previous slide)

Is the Complainant:

- a current or former spouse (of the Respondent); or
- current or former cohabitant (of the Respondent); or
- someone with whom the Respondent has a child; or
- someone with whom the Respondent has or had a dating or engagement relationship; or
- a person similarly situated under California domestic or family violence law

Elements of Domestic Violence - EO 1096/1097 and Addendum A

Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship.

Factors that may determine whether persons are cohabiting include, but are not limited to:

- (1) sexual relations between the Parties while sharing the same living quarters
- (2) sharing of income or expenses
- (3) joint use or ownership of property
- (4) whether the Parties hold themselves out as spouses
- (5) the continuity of the relationship
- (6) the length of the relationship

Elements of Domestic Violence – Addendum B

1. Did Respondent engage in **physical violence** or **threaten physical violence** against Complainant?

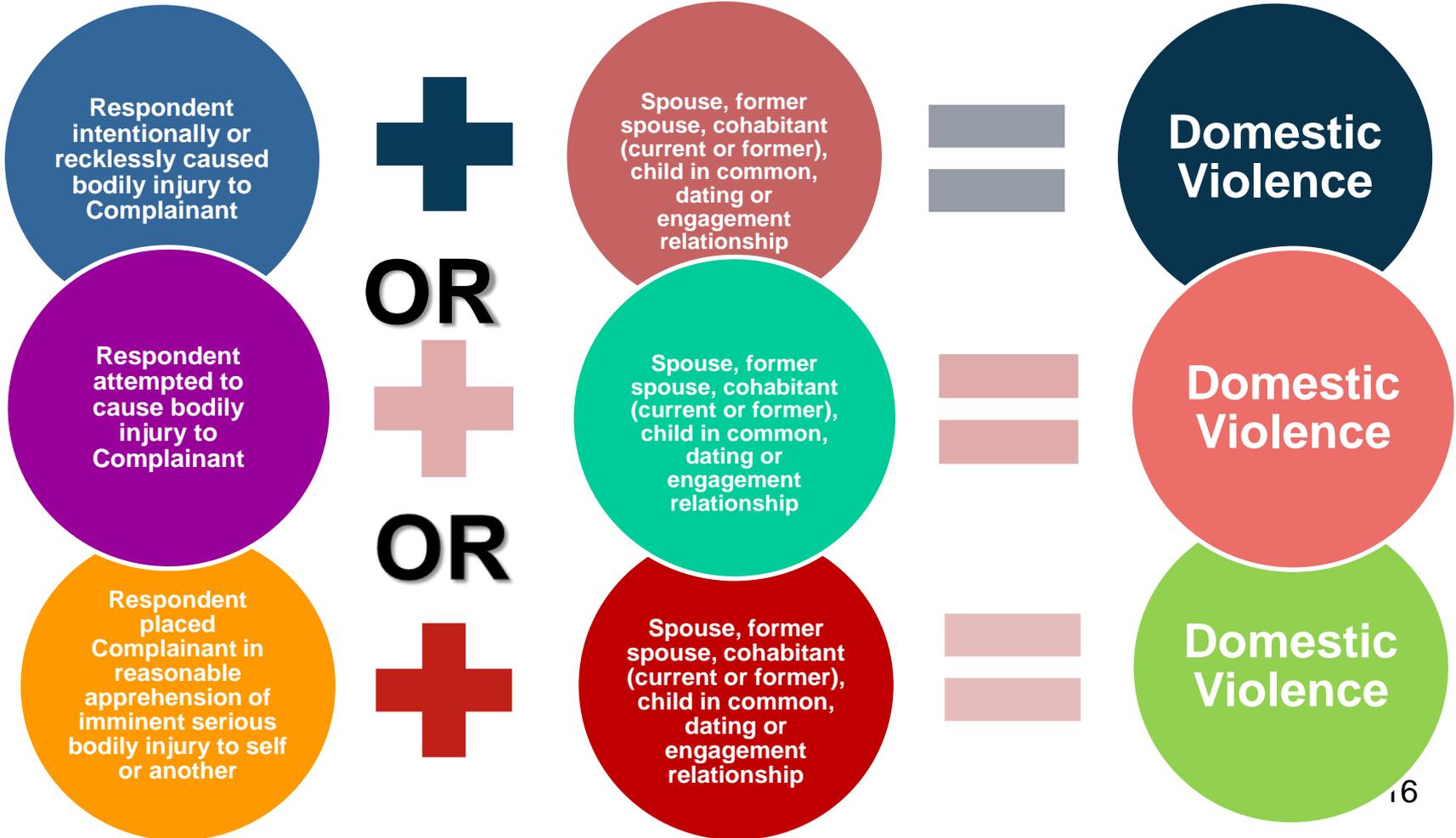
AND

2. Is Respondent:

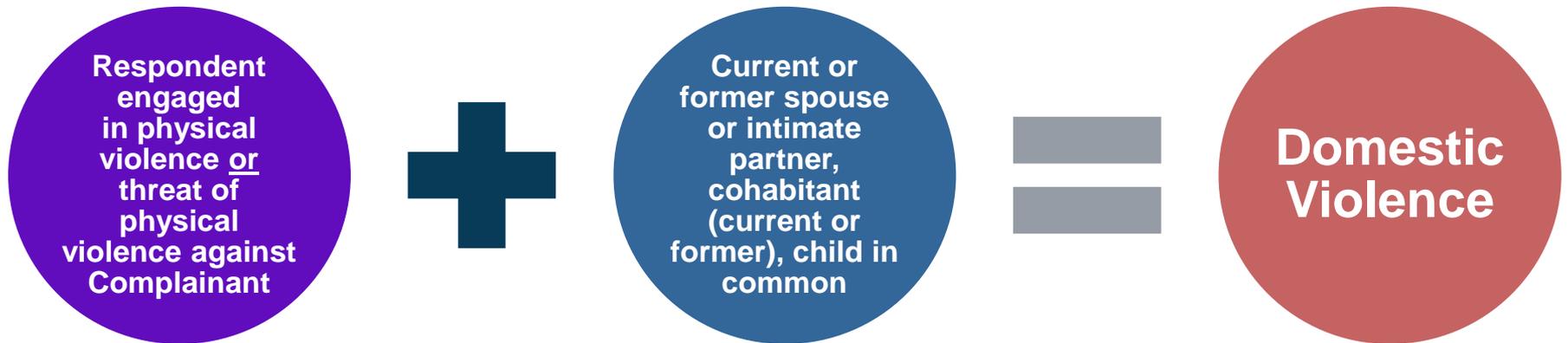
- a current or former spouse or intimate partner of the Complainant; or
- a person with whom the Complainant shares a child in common; or
- a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner; or
- a person similarly situated to a spouse of the Complainant

Elements of Domestic Violence - EO

1096/1097 and Addendum A



Elements of Domestic Violence - Addendum B



Stalking

EO 1096/1097

Engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the safety of self or others' safety or to suffer Substantial Emotional Distress.

Addendum B

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

- a) fear for his or her safety or the safety of others; or
- b) suffer substantial emotional distress

Elements of Stalking – EO 1096/1097

1. Did Respondent engage in a **repeated** course of conduct directed at a specific person (Complainant)?
AND
2. Would Respondent's alleged course of conduct cause a reasonable person to fear for their safety or the safety of others **or** suffer substantial emotional distress?

Examples of Stalking Conduct



Following



Watching



Waiting (outside a residence, car, class, etc.)



Unwanted communication – in-person, phone calls, text messages, social media, emails, paper notes

Unwanted gifts



Threats against the Complainant or someone else (e.g. family/friends, or the Respondent themselves)



Property damage

Attempting to ruin someone's reputation (e.g. spreading rumors about them or contacting their employer)



Engaging in the above behaviors via a third party



Elements of Stalking – EO 1096/1097

Course of conduct

- Not a single incident – two or more
- Over what period of time?
- Does the behavior or conduct have to be the same each time or can it be different?

Example: Calling multiple times one day and sending an unwanted gift the following day.

- Some conduct in the context of an education program or activity and other conduct not?

Elements of Stalking – EO 1096/1097

Reasonable Person – reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant

Substantial Emotional Distress – significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling

- Context is important

Elements of Stalking – Addendum B

1. Did Respondent engage in a course of conduct directed at Complainant?

AND

2. Would Respondent's alleged course of conduct cause a reasonable person to fear for their safety or the safety of others **or** suffer substantial emotional distress?

Note: Definition almost identical to EO 1096/1097 – except no reference to “repeated” course of conduct

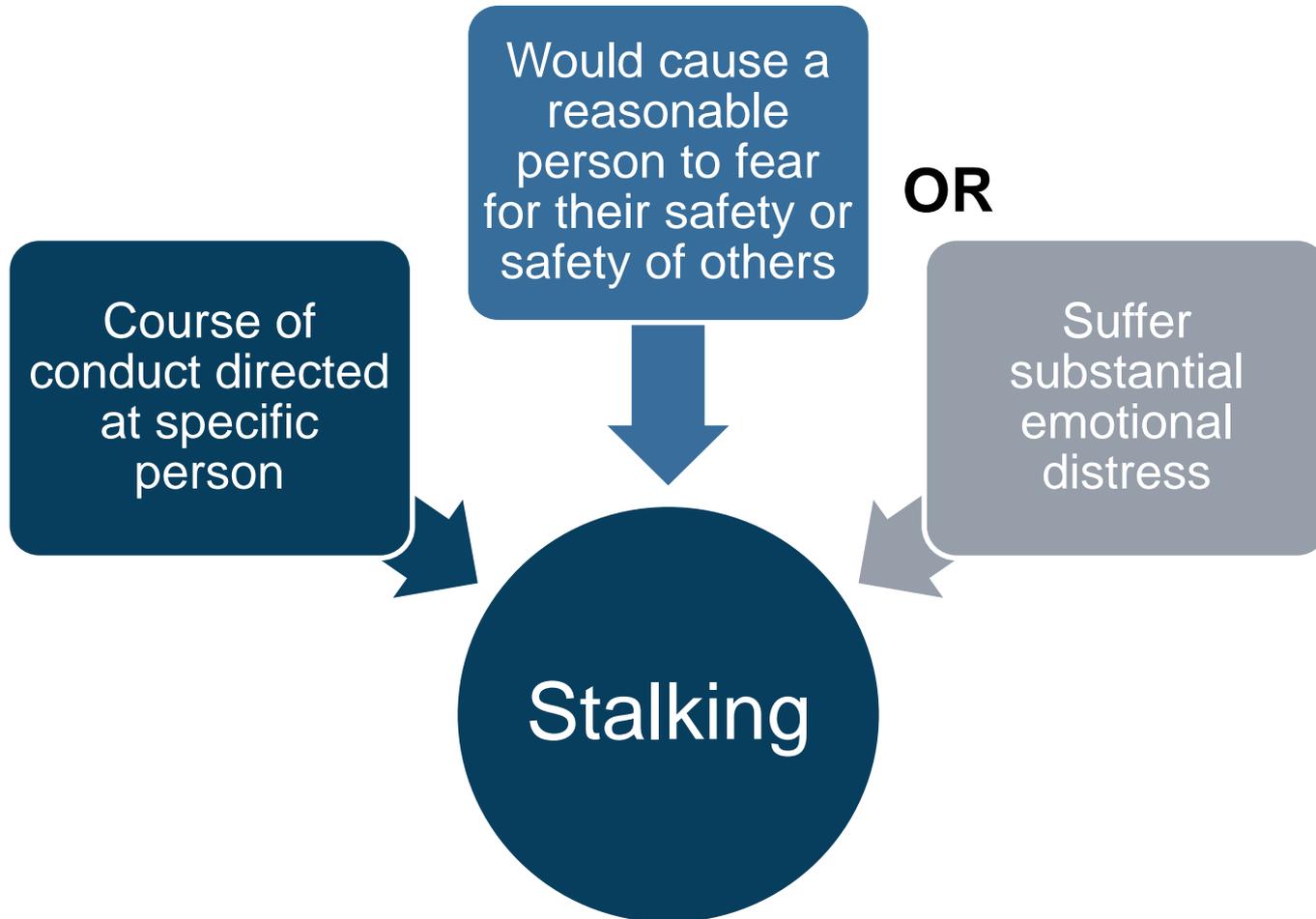
Stalking “on the basis of sex”

“Stalking may not always be ‘on the basis of sex’ (for example when a student stalks an athlete due to celebrity worship rather than sex), but when stalking is ‘on the basis of sex’ (for example, when the student desires to date the victim) stalking constitutes ‘sexual harassment’ under §106.30.

Stalking that does not constitute sexual harassment because it is not ‘on the basis of sex’ may be prohibited and addressed under a recipient’s non-Title IX codes of conduct”

(FR 30172, fn 772)

Elements of Stalking



Scenarios

Scenario #1 – Reese and Elliott:

Reese, a student, alleges that their spouse Elliott (also a student), with whom they live in an on-campus graduate student apartment, recently strangled them during an argument about Reese’s friendship with another student. Residential life staff have previously expressed concern to you about Reese and Elliott, who appear to have what has been described to you as “a volatile relationship.”

During the intake meeting with Reese, you observe bruising on their neck. Reese tells you they have moved out of their apartment and are staying with a family member indefinitely. Reese requests a mutual No Contact Order, which your office implements. Reese does not want an investigation. Within one hour of you issuing the NCO to both parties by email, Reese calls the office and asks for it to be removed. Reese will not say why they are making this request other than that they changed their mind.

Scenario #1 – Reese and Elliott:

1

Using the definition sheet you were provided with, would the conduct described in the scenario meet the elements of prohibited conduct in EO 1096/1097 or Addendum B? Please explain why.

2

What would your next steps be in this case?

Scenario #2 – Rowan and London

Rowan, a student, contacts the Title IX office and alleges the following:

Rowan and London, also a student, dated during their Sophomore year (last year), and the relationship ended badly. London wanted to get back together with Rowan and spent all summer texting them, even though Rowan did not respond. London is now on a year abroad to Germany, while Rowan is on a year abroad to Chile. Shortly after they both leave the U.S., London texts Rowan that they want to fly to visit them in Chile soon. Rowan does not respond.

One week later, London sends Rowan a message saying that they have had enough of being ignored and will kill Rowan if they do not text London back. Rowan tells you they are very afraid that London means what they say and is going to hurt them.

Scenario #2 – Rowan and London:

- 1** Using the definition sheet you were provided with, would the conduct described in the scenario meet the elements of prohibited conduct in EO 1096/1097 or Addendum B? Please explain why.
- 2** Is there any other information that would help you in determining your response to the above?

Scenario #3 – Stevie and Harper:

Stevie, an employee in the math department tells you that they recently broke up with their dating partner, Harper, who works in the history department. Stevie alleges that once during an argument, Harper shoved them against a wall, causing bruising down the side of Stevie's torso.

Stevie also makes the following further allegations: Harper has been text messaging Stevie constantly, asking that they get back together. Harper has also started waiting outside Stevie's office and following them to their car at the end of the day. Harper also calls Stevie incessantly in the early hours of the morning and has shown up outside Stevie's apartment twice. Yesterday, Stevie found that one of their car tires had been slashed in the campus parking lot and later received a text from a number they did not recognize, which read, "You better watch yourself." Stevie thinks Harper damaged their car and sent the message

Stevie tells you that they cannot concentrate at work and that they feel constantly on edge. They are worried about what Harper might do next.

Scenario #3 – Stevie and Harper:

- 1** Using the definition sheet you were provided with, would the conduct described in the scenario meet the elements of prohibited conduct in EO 1096/1097 or Addendum B? Please explain why.
- 2** What are some initial questions you would ask Stevie?

Scenario #4 – Sam and Ainslie

A student, Ainslie, recently contacted you to make the following allegations against another student, Sam:

Sam is romantically interested in student Bradbury, who recently began dating Ainslie. Sam is jealous of the relationship and has started following Ainslie around campus, appearing outside Ainslie's classes, staring intently at Ainslie, and leaving threatening notes on Ainslie's car. One of the notes reads, "Back off or you'll regret it." Yesterday evening, Sam followed Bradbury and Ainslie who were in Ainslie's car and continued to follow Ainslie to their on-campus residence hall after they dropped Bradbury at their house. Sam pulled their car up next to Ainslie's and watched Ainslie as they went inside the residence hall.

Ainslie tells you that they are very fearful of Sam and are too scared to go to class.

Scenario #4 – Sam and Ainslie:

1

Using the definition sheet you were provided with, would the conduct described in the scenario meet the elements of prohibited conduct in EO 1096/1097 or Addendum B? Please explain why.

2

What are some initial questions you would ask Ainslie?

Scenario #5 – Jordan and Parker

At their request and as a Supportive Measure, Jordan moves to a different residence hall after reporting that Parker (an acquaintance from their previous residence hall) had been following them to and from class for several weeks. Jordan says that this was after Jordan rejected Parker's multiple requests for a date and Jordan told Parker, "Please do not speak to me again. Leave me alone." A No Contact Directive was also implemented between Jordan and Parker.

Since the No Contact Directive was implemented, Jordan alleges that the following has occurred: Parker has shown up at the gym where Jordan works and left chocolates for Jordan. Parker has also started using internet-based messaging services to send text messages to Jordan, who blocked Parker's phone number.

Jordan reports that this morning they found flowers outside their door with a note reading, "I hope you like your new room. P x" Jordan believed that Parker did not know where their new room is.

Scenario #5 – Jordan and Parker

- 1** Using the definition sheet you were provided with, would the conduct described in the scenario meet the elements of prohibited conduct in EO 1096/1097 or Addendum B? Please explain why.
- 2** What are some initial questions you would ask Jordan?

Questions?





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