

Appendix A: Categorization of Nonconsensual Sexual Contact

Stanford defines sexual misconduct and sexual assault in the following way:¹

3. What Are Sexual Misconduct and Sexual Assault?

3.a. What is Sexual Misconduct?

Sexual misconduct is the commission of a sexual act, whether by a stranger or nonstranger and regardless of the gender of any party, which occurs without indication of consent.

3.a.1. The following acts or attempted acts can be the subject of a Sexual Misconduct or Sexual Assault charge:

- a) vaginal or anal intercourse;
- b) digital penetration;
- c) oral copulation; or
- d) penetration with a foreign object

3.a.2. Additional Acts of Sexual Misconduct

The following completed acts can be the subject of a Sexual Misconduct charge:

- a) unwanted touching or kissing of an intimate body part (whether directly or through clothing); or
- b) recording, photographing, transmitting, viewing or distributing intimate or sexual images without the knowledge and consent of all parties involved.

3.b. What is Sexual Assault?

Sexual Assault is an act described in Section 3.a.1 accomplished by use of (i) force, violence, duress or menace; or (ii) inducement of incapacitation or knowingly taking advantage of an incapacitated person.

Please see <https://adminguide.stanford.edu/chapter-1/subchapter-7/policy-1-7-3> for the full policy on Prohibited Sexual Conduct.

In the Stanford Campus Climate Survey, students were first shown the university's definition of consent, and then asked whether they had experienced sexual acts without their consent. Students were instructed to indicate both whether someone attempted an act (*tried to do this*) and whether someone completed the act (*did this*).

¹ From <https://adminguide.stanford.edu/chapter-1/subchapter-7/policy-1-7-3>.

Figure 1: Screenshot of Nonconsensual Contact Question²

Have you experienced any of the following, without your consent, since you came to Stanford?

Please indicate whether one or more persons have TRIED to or DID any of the following. (By "TRIED to" we mean that someone attempted but did not complete the behavior.)

For each item, please select one answer in both the "TRIED to" and "DID" columns.

	Someone TRIED to do this...				Someone DID this...			
	Once	More than Once	Never	Unsure	Once	More than Once	Never	Unsure
Someone kissed me without my consent	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Someone touched, fondled, or rubbed up against the private areas of my body (breast/chest, crotch or butt) without my consent	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Someone removed some of my clothes without my consent	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Someone put a penis or inserted fingers or objects into my vagina or anus without my consent	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Someone performed oral sex on me or made me give them oral sex without my consent	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Someone put my penis or fingers in their vagina or anus, or made me put objects in their vagina or anus without my consent	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Those students who said that they had experienced nonconsensual contact were then shown a follow-up question asking about the means by which the act was accomplished.

Figure 2: Screenshot of Follow-Up Tactics Question

You indicated on the previous page that someone did (or tried to do) one of the following:

- kissed you without your consent
- touched, fondled, or rubbed up against the private areas of your body without your consent
- removed some of your clothes without your consent

Did the person(s) do that by...

	Yes	No
Catching you off-guard?	<input type="radio"/>	<input type="radio"/>
Telling lies, threatening to end the relationship or to spread rumors about you, or continually verbally pressuring you?	<input type="radio"/>	<input type="radio"/>
Showing displeasure, criticizing your sexuality or attractiveness, or getting angry?	<input type="radio"/>	<input type="radio"/>
Taking advantage of you when you were drunk or high?	<input type="radio"/>	<input type="radio"/>
Taking advantage of you when you were asleep, unconscious, or unable to resist or respond?	<input type="radio"/>	<input type="radio"/>
Threatening to physically harm you or someone close to you?	<input type="radio"/>	<input type="radio"/>
Using force, for example holding you down with their body weight, pinning your arms, or having a weapon?	<input type="radio"/>	<input type="radio"/>
I don't know / I have no recollection	<input type="radio"/>	<input type="radio"/>

Other method not described above?

Yes (please specify)

No

² Note: For graduate students, the question wording was *since you started graduate school at Stanford* instead of *since you came to Stanford*.

Nonconsensual sexual acts and tactics were categorized in one of four ways, depending on both the nature of the act and the tactic used to accomplish the act:

- **Sexual Assault:** Penetration without consent and oral sex without consent, either completed or attempted, when the respondent indicated that the act was accomplished through threat of violence, force, or when the respondent was incapacitated.
- **Possible Sexual Assault/Misconduct:** Penetration without consent and oral sex without consent, either completed or attempted, where more information would be needed about how the act was accomplished to determine whether it would be categorized as assault or misconduct.
- **Sexual Misconduct:** Penetration without consent and oral sex without consent, either completed or attempted, when force, threat of violence, or incapacitation were not indicated. Completed acts of sexual touching. Completed acts of clothing removal under some circumstances (see below).
- **Other Acts of Nonconsensual Contact:** Attempted acts of sexual touching. Attempted acts of clothing removal and completed acts of clothing removal under some circumstances (see below). Completed or attempted kissing without consent. These acts would not typically be considered sexual misconduct according to Stanford policy (see point 3 below), but may constitute sexual harassment in some circumstances.³

For some types of nonconsensual sexual acts and tactics, there was not exact alignment between the survey questions and a Stanford policy category. In those cases, respondents' answers were assigned the category that was the best match. Depending on the facts of each individual incident, some of the acts categorized here as sexual assault might be more properly characterized as sexual misconduct, and vice versa. Without knowing the details of each incident, the category applied was the most likely fit, but these categories should be interpreted with caution. Three specific decisions about categorization should be mentioned:

1. Where a student indicated that nonconsensual penetration or nonconsensual oral sex occurred by someone *taking advantage of you when you were drunk or high*, but did not indicate that they were incapacitated (*taking advantage of you when you were asleep, unconscious, or unable to resist or respond*), the student's answer was included in the category of sexual misconduct. In alignment with Stanford's definitions, an impacted student's intoxication must reach the level of incapacitation for nonconsensual penetration or nonconsensual oral sex to be categorized as sexual assault.
2. Students who indicated that they experienced nonconsensual penetration or nonconsensual oral sex and that the person(s) accomplished the act by *telling lies, threatening to end the relationship or to spread rumors about you, or continually verbally pressuring you* were included in the category of sexual misconduct. It should be noted, however, that if the lies, threats, or verbal pressure rose to the level of duress, as defined in [Administrative Guide 1.7.3](#),⁴ those acts could lead to a charge of sexual assault.

³ These acts may constitute sexual harassment when pervasive, when they create a hostile climate, and/or when submission to the conduct plays a role in educational or employment decisions.

⁴ <https://adminguide.stanford.edu/chapter-1/subchapter-7/policy-1-7-3#anchor-24471>.

3. The survey asked respondents if someone had *kissed me without my consent*. These responses have been categorized as other acts of nonconsensual contact. Under Stanford policy, modeled on California state law, nonconsensual kissing on the mouth is not considered sexual misconduct. By contrast, kissing of an intimate body part (a woman's breast, or anyone's anus, groin, sexual organ, or buttocks) without consent would be categorized as sexual misconduct. It was presumed that the majority of survey responses indicating having been *kissed without my consent* reflected incidents of being kissed on the mouth. If, instead, respondents were referring to being kissed on an intimate body part, those acts could lead to a charge of sexual misconduct.

In the small number of cases where students gave ambiguous answers (*I don't know/ I have no recollection* and *other*) to the follow-up question asking the means by which a nonconsensual act of penetration or nonconsensual oral sex was accomplished, respondents' answers were included in a mixed category of 'possible sexual assault/misconduct.'

The table below indicates how combinations of nonconsensual sexual contact and tactics were grouped into categories based on Stanford's Prohibited Sexual Conduct Policy, [Administrative Guide 1.7.3](#).⁵

⁵ <https://adminguide.stanford.edu/chapter-1/subchapter-7/policy-1-7-3>.

Categorization of Nonconsensual Sexual Contact and Tactics			
	Tactics		
Nonconsensual Sexual Acts	Catching you off-guard; AND/OR Telling lies, threatening to end the relationship or to spread rumors about you, or continually verbally pressuring you; AND/OR Showing displeasure, criticizing your sexuality or attractiveness, or getting angry; AND/OR Taking advantage of you when you were drunk or high	Taking advantage of you when you were asleep, unconscious, or unable to resist or respond; AND/OR Threatening to physically harm you or someone close to you; AND/OR Using force, for example holding you down with their body weight, pinning your arms, or having a weapon	I don't know/I have no recollection; AND/OR Other
Someone kissed me without my consent	Other Acts of Nonconsensual Contact⁶ (both attempted and completed)		
Someone touched, fondled, or rubbed up against the private areas of my body (breast/chest, crotch or butt) without my consent	Sexual Misconduct (if completed) Other Acts of Nonconsensual Contact (if attempted but not completed)		
Someone removed some of my clothes without my consent	Other Acts of Nonconsensual Contact (both attempted and completed)	Sexual Misconduct (if completed) Other Acts of Nonconsensual Contact (if attempted but not completed)	
Someone put a penis or inserted fingers or objects into my vagina or anus without my consent	Sexual Misconduct (both attempted and completed)	Sexual Assault (both attempted and completed)	Possible Sexual Assault/Misconduct (both attempted and completed)
Someone performed oral sex on me or made me give them oral sex without my consent			
Someone put my penis or fingers in their vagina or anus, or made me put objects in their vagina or anus without my consent			

⁶ Other Acts of Nonconsensual Contact may constitute harassment in some circumstances.