



Title IX – Sexual Harassment

Equity & Title IX Annual Volunteer Training
August 2023

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Title IX

Title IX of the Education Amendments of 1972

“No person in the United States shall, on the basis of **sex**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”



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Title IX Sexual Harassment

Categories of Prohibited Conduct on the Basis of Sex:

- Quid Pro Quo**
- Hostile Environment**
- Sexual Assault**
- Dating Violence**
- Domestic Violence**
- Stalking**

Based on current Federal regulations (as of August 2023)



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Title IX Sexual Harassment

Quid Pro Quo

Employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in an **unwelcome sexual conduct**

Example:

Faculty member conditions a student's grade on whether or not the student will engage in sexual intercourse, despite the student's previous rejection of this idea



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Hostile Environment

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 University's education program or activity



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Title IX Sexual Harassment

Sexual Assault

Rape is the **slightest penetration of the vagina or penis by the sex organ of the other person, without the consent of the victim**, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

- Attempted Rape is included.



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Sexual Assault

Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.



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Sexual Assault

Sexual Assault with an Object is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

- An "object" or "instrument" is anything used by the offender other than the offender's genitalia.



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Sexual Assault

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 their age or because of their temporary or permanent mental or physical incapacity.



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Sexual Assault

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



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Sexual Assault

Statutory Rape is sexual intercourse with a person who is under the statutory age of consent as defined by Missouri law.



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Dating Violence

Violence committed by a person –
(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
(i) The length of the relationship,
(ii) The type of relationship, and
(iii) The frequency of interaction between the persons involved in the relationship.



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Domestic Violence

Includes felony or misdemeanor crimes of violence committed by:

- a **current or former spouse or intimate partner** of the victim,
- 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 Missouri, or
- 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 Missouri.



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Stalking

Engaging in a **course of conduct** directed at a specific person that knowingly or recklessly would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.



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KNOWLEDGE CHECK

MOCK HEARING ALLEGATIONS

- Hailey Taylor was awakened by Carter Robinson's fingers rubbing her genitals (clitoris).
- Taylor reported rolling away, shaking her head side-to-side and audibly grunting in an attempt to signal "no"
- Taylor reported that Robinson waited several more seconds before removing his hands from her pants and then slid his hand up her body and "squeezed" her breast twice before getting up from the futon.
- Taylor reports that she was asleep when Robinson initiated the above-described conduct.
- *What category of prohibited conduct might this be considered?*



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Sexual Assault

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Title IX Sexual Harassment

Jurisdiction

Power / authority for the University to act concerning prohibited conduct

- Occurs against a person in the US
- Occurs in an education program or activity
 - Locations, events, or circumstances over which University exercised substantial control over both Respondent and context in which conduct occurs
 - Any building owned or controlled by a student organization that is officially recognized by University



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KNOWLEDGE CHECK

Jurisdiction - Scope

- *How are parties involved affiliated with incident?*
- *Where did incident occur?*

MOCK HEARING SCENARIO



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KNOWLEDGE CHECK

MOCK HEARING SCENARIO

- Where did incident occur?
 - Campus residence hall (on-campus)
- How are parties involved affiliated with incident?
 - Students
 - Staff members at campus library

Within Scope of Title IX



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KNOWLEDGE CHECK

SCENARIO A

- Student filed a Formal Complaint against a Faculty member for sexual harassment. During the investigation, it is discovered that the conduct allegedly occurred in Germany while the student and faculty member were participating in a study abroad program.
- Does the University have jurisdiction under Title IX?



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KNOWLEDGE CHECK

SCENARIO A

- Student filed a Formal Complaint against a Faculty member for sexual harassment. During the investigation, it is discovered that the conduct allegedly occurred in Germany while the student and faculty member were participating in a study abroad program.
- Does the University have jurisdiction under Title IX?
 - Where did incident occur?
 - Germany
 - How are parties involved affiliated with incident?
 - Student
 - Faculty member

NOT within scope of Title IX



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Process and Procedure

Report & Intake



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How Reports are Made

- Any person can make a report to the Equity / Title IX offices
- Reports can be made:
 - In person
 - By mail
 - By telephone
 - By email
 - On-line
- University employees (unless exempted) are **mandated reporters** – required to report any form of discrimination or harassment of which they are aware to the Equity / Title IX office.



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Supportive Measures

- Upon receipt of a report, the Equity / Title IX office will reach out to the Complainant, if known, to offer **supportive measures**
 - Offered to either Party at no cost
 - Non-disciplinary & non-punitive
- Examples:*
 mutual contact restrictions
 counseling/support services
 adjusting course assignment
 adjusting exam schedules
 altering on-campus housing assignment
- **Balancing act**
 - Restore or preserve equal access to the University programs or activities the Party was previously enjoying prior to the alleged incident
 - Not unreasonably burdensome to the other Party
 - Protect safety of all Parties
 - Deter future occurrences of discrimination or harassment



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Process and Procedure

Investigation



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Who's Who?

- **Reporter:** Individual who provides notice to the University of a potential violation, may be a mandatory reporter or the complainant or a member of the larger community.
- **Complainant:** Individual alleged to have been subjected to conduct that may constitute discrimination or harassment.
 - Can be any person impacted including a visitor
 - Can be the University
- **Respondent:** Entity who has been reported to be the perpetrator of conduct that could constitute discrimination or harassment.
 - Individual (Student, Faculty, or Staff)
 - Student Organization
 - Institutional Unit



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KNOWLEDGE CHECK MOCK HEARING SCENARIO

- **Reporter:** Individual who provides notice to the University of a potential violation, may be a mandatory reporter or the complainant or a member of the larger community.
 - > **HAILEY TAYLOR**
- **Complainant:** Individual alleged to have been subjected to conduct that may constitute discrimination or harassment.
 - Can be any person impacted including a visitor
 - Can be the University
 - > **HAILEY TAYLOR**
- **Respondent:** Entity who has been reported to be the perpetrator of conduct that could constitute discrimination or harassment.
 - Individual (Student, Faculty, or Staff)
 - Student Organization
 - Institutional Unit
 - > **CARTER ROBINSON**



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Who's Who?

- **Support Person:** Individual selected by a Party to provide support and guidance throughout the Title IX or Equity Process.
- **Advisor:** Individual who will conduct cross-examination and other question on behalf of a Party at a Title IX hearing.
- **Hearing Officer:** Individual who will preside over and rule on objections and the relevancy of questions and evidence during a Title IX hearing.
- **Hearing Panel Chair:** Individual who will preside over an Equity hearing.
- **Equity Resolution Appellate Officer:** Individual appointed to review a prior decision of a decision-maker(s).



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Investigation Process

1. Report is made
 2. Intake completed by Equity & Title IX office
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3. **Filing of (Formal) Complaint**
 4. Notice of Allegations provided to known Parties & Investigation plan developed
 5. Fact Gathering
 - Parties interviewed
 - Witnesses interviewed
 - Evidence collected
 6. Analysis of Information & Investigative Report Prepared
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- ❖ Dismissal / Summary Determination
 - ❖ Case Resolution/Adjudication



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KNOWLEDGE CHECK

MOCK HEARING SCENARIO

HISTORY OF THE CASE

On February 7, 2023, Complainant ¹ Hailey Taylor submitted a report to the Office of Institutional Equity (OIE), describing alleged behaviors toward her; on February 8 by Respondent Carter Robinson, that may constitute Sexual Assault (Roffling) in violation of University policy. I briefly met with Taylor on February 9 to discuss her rights and options. At that meeting, she expressed an interest in proceeding with a Formal Complaint and Investigation.

On February 13, Taylor submitted a Formal Complaint to OIE. I met with her again on February 15 to discuss the allegations in greater detail, as well as the steps of the investigation process.

On February 20, I sent Notices of Allegations to Taylor and Robinson, initiating this Investigation.

On February 28, I met with Robinson to discuss the Title IX Resolution Process and to obtain his statement in response to the allegations.

In March, I interviewed witnesses and obtained relevant documentary evidence. Summaries of my interviews and all information gathered during the investigation are contained in this Investigative Report.



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