

DO I NEED TO REPORT THIS?

MANDATORY REPORTING EQUITY & TITLE IX

AUGUST 2023



University of Missouri System

COLUMBIA | KANSAS CITY | ROLLA | ST. LOUIS

EQUITY & TITLE IX ... ABOUT US

- UM System has five (5) offices systemwide that provide centralized reporting, investigating, outreach, and referrals related to equity and Title IX concerns
- **Respond to reports** of harassment and discrimination involving students, faculty, staff, and visitors
- **Engage in prevention efforts** by conducting presentations and trainings throughout the year
- **Provide advice/guidance** to individuals or departments, prospectively or when specific situations arise
- **Maintain compliance** with federal, state and local anti-discrimination and harassment laws



CONSIDER THIS ...

Staff member from S&T calls in upset that her supervisor did not provide her information about her leave options, including FMLA, which she tells you is important as she wants to get as much paid time off as possible during maternity leave. As you discuss FMLA and benefit options, the staff member discloses that her supervisor has reduced her schedule by 20%, and rather than allowing her to continue working in the field, started scheduling her to desk work to compile data for the grant. Staff member indicates that she has asked the supervisor to return her to her normal schedule and duties, but so far, the supervisor told her that she did not want to add any additional stress to her “in her condition.”



CONSIDER THIS ...

You have now hung up with the caller.

Does this trigger a reporting obligation?

If so, how do you make a report?



MANDATORY REPORTING

EQUITY & TITLE IX

MANDATORY REPORTING

THE WHO & THE WHAT

All employees of the University, unless exempted, who become aware of any form of possible discrimination or harassment, including sexual harassment, are Mandated Reporters.

- ❖ *If you are unsure whether it is necessary, reach out to the appropriate Equity & Title IX Office to discuss whether the situation requires you make a mandated report.*



MANDATORY REPORTING

WHO IS EXEMPTED?

- Employees with a **legal obligation or privilege of confidentiality** (when the information is learned in the course of a confidential communication).
 - Examples:
 - Health care providers
 - Professional counselors
 - Lawyers
 - Staff associated with the above individuals

- Employees **designated confidential** by the University and approved by the Office of General Counsel
 - Examples:
 - Confidential support advocates
 - non-professional counselors



MANDATORY REPORTING

WHAT MUST BE REPORTED?

- Must report all details known
 - ✓ names of any involved persons
 - ✓ all other information in your possession

- **You cannot promise confidentiality, even if requested!**
 - ✓ Explain limitations
 - ✓ Share available options for confidential disclosures (i.e., EAP)



MANDATORY REPORTING

WHEN MUST INFORMATION BE REPORTED?

As soon as possible.



MANDATORY REPORTING

WHY REQUIRE IT?

- **Offer support and resources** to the affected individual
- **Address misconduct** involving students, University employees, visitors and volunteers
- **Prevent future misconduct** of the same or similar nature from occurring



MANDATORY REPORTING

WHAT IF YOU DO NOT REPORT?

- Failure to comply with reporting requirements can result in **disciplinary action** under University policy
- Employees are also at **increased risk of personal liability** and may be determined **ineligible for defense or protection** under University policy for associated claims, causes of action, liabilities or damages



EQUITY

[CRR 600.010](#)

Equity

University of Missouri Statement of non-discrimination, CRR 600.010

“The University of Missouri does not discriminate on the basis of:

- race,
- color,
- national origin,
- ancestry,
- religion,
- sex (gender),
- pregnancy,
- sexual orientation,
- gender identity,
- gender expression,
- age,
- disability,
- protected veteran status, *and*
- any other status protected by applicable state or federal law.



Equity – Discrimination & Harassment

Discrimination or Harassment. Conduct that is based upon a protected class that:

1. **Adversely affects** a term or condition of employment, education, living environment or participation in a University activity; or
2. **Creates a hostile environment** by being sufficiently severe or pervasive and objectively offensive that it interferes with, limits, or denies the ability to participate in or benefit from the University's educational programs, activities, or employment.



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Equity – Discrimination & Harassment

Discrimination: Treating someone differently based on a protected class or status

- A professor not excusing a pregnant student's absence from class despite the absence being medically necessary due to the student's pregnancy.
- An employee is not permitted to dress in religious garb as per the employee's religious beliefs because the employer believes it might send the wrong image to its customers.
- A job applicant is not given an interview because the application indicates that the applicant graduated from college in 1974.

Harassment: Engaging in conduct that creates a hostile environment for another because of their protected class

- Jokes, pranks, or negative comments that are hostile or demeaning with regards to a protected category
- Racial slurs
- Repeated requests for dates
- Giving sexually suggestive looks such as staring, winking, and licking lips or touching yourself sexually in front of others
- Symbols that are offensive based on race or religion
- Obscene or offensive e-mails, phone call, or text messages including "sexting"



KNOWLEDGE CHECK

- Co-worker A leaves around the breakroom memes that include racial and ethnic stereotypes even after Co-worker B asked Co-worker A to stop, resulting in Co-worker B to no longer use the breakroom.



KNOWLEDGE CHECK

- Student complainant filed a report to the Equity and Title IX Office alleging that female students were required to present their oral exams while wearing skirts, though the male students could wear pants.



KNOWLEDGE CHECK

- A Deaf applicant applying for an on-campus job in a print shop requested that a sign language interpreter be provided for the interview, however, the print shop supervisor did not provide such an interpreter.



KNOWLEDGE CHECK

- Dana has been working for University Hospital's IT department for 15 years and is 57 years old. She reports that her supervisor has made multiple comments about how great it is when "freshblood" gets into the department, since the millennials are not old dogs and *can* learn new tricks. Dana reports that she has requested to attend various IT trainings but is repeatedly turned down and has not received more than a 1% merit raise in 3 years. Dana also reports that new hires are typically between 22-25 years old.



Title IX, Sexual Harassment

[CRR 600.020](#)

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.”



Title IX Sexual Harassment

- Categories of Prohibited Conduct (that occurs on the basis of sex):
- **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**
 - EX: 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
- **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
 - EX: Student repeatedly makes lewd and offensive comments to another student about the other student's sexual orientation such that it causes the other student to transfer to another residential hall
- **Sexual Assault**
 - rape, sodomy, sexual assault with an object, **fondling**, incest, statutory rape
 - Fondling = touching of the private body parts of another person for the purpose of sexual gratification, without consent
- **Dating Violence / Domestic Violence**
 - current/former relationship, current/former spouse, child in common, roommate
- **Stalking**
 - **Course of conduct** directed at a specific person knowing or consciously disregarding that it would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress



KNOWLEDGE CHECK

- Faculty member was reported to have asked a student to stay after class multiple times so he could “help” the student with the course. When the student repeatedly declined the faculty member’s request, he advised that the student would not receive the same grade unless the student continued to visit him after class – that he liked the attention and had thought there was something special between them.



KNOWLEDGE CHECK

- Complainant reports that she ended her long-term relationship with Respondent a month ago but Respondent won't leave her alone. She provides screenshots of 100 text messages from Respondent. In one of the text messages, Respondent says that she looked pretty in that red dress. Complainant reported that the day she received that text, she was wearing a red dress. Complainant says that she is scared to come to class now because Respondent is also a student and is worried about running into Respondent on campus.



KNOWLEDGE CHECK

- Employee reported that her supervisor near the end of the day would come to her cubicle to discuss the schedule for the next day. While doing this, he would often ask to view the calendar. As she would pull up the calendar, supervisor would stand behind her and massage her shoulders. Despite her pulling away and telling him that she did not need a massage, the supervisor continued to rub her shoulders while “checking the schedule.” The supervisor also asked this employee (no others) to come in on Sundays to help him prepare for the week and he would pay her overtime. Employee started feeling anxiety when getting ready for work and sought medical treatment.



Process and Procedure

Equity & Title IX

Jurisdiction

Power / authority for the University to take action over prohibited conduct

EQUITY

- Occurs on the UM premises or at University sponsored or University supervised functions
- Off-campus:
 - To protect physical safety of students, employees, and visitors or other members of University community
 - If effects of conduct interfere with or limit any person's ability to participate in or benefit from the University's educational programs, activities or employment
 - If conduct is related to a faculty member's fitness or performance in the professional capacity of teacher or researcher
 - If conduct occurs when a faculty member is serving in role of a University employee

TITLE IX

- 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
- Occurs against a person in the US



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.



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

- **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

Examples:

mutual contact restrictions
counseling/support services
adjusting course assignment
adjusting exam schedules
altering on-campus housing assignment



Investigation Process

- Report is made
 - Intake by Equity & Title IX Office personnel
-

- **Filing of (Formal) Complaint**
- Notice of Allegations provided to known Parties & Investigation plan developed
- Fact gathering
 - Parties interviewed
 - Witnesses interviewed
 - Evidence collected
- Analysis of Information & Report Writing
- Dismissal / Summary determination
- Case Resolution/Adjudication



The Processes

Title IX

Informal Resolution*

Hearing Panel
Resolution

Academic
Medical Center
(AMC)
Process

Facilitated
Dialogue/Mediation

Administrative
Resolution

Equity

Conflict
Resolution*

Administrative
Resolution

Hearing Panel
Resolution

**Not available to resolve allegations that an employee sexually harassed or engaged in sexual misconduct with a student*



Who is Entitled to What Process?

Title IX

Equity

Informal Resolution*

Hearing Panel Resolution

Academic Medical Center (AMC) Process

Conflict Resolution*
(facilitated dialogue/mediation)

Administrative Resolution

Hearing Panel Resolution

Facilitated Dialogue/Mediation

Administrative Resolution

Student, Staff & Faculty Member Respondents

Handles allegations arising from a designated Academic Medical Center

Student/Student Org, Staff & Faculty Members, University Respondents

Student & Faculty Member Respondents

Student, Staff & Faculty Member Respondents

**not available to resolve allegations that an employee sexually harassed or engaged in sexual misconduct with a student*



BEST PRACTICES

- Remain calm and exhibit empathy
 - This will help to minimize the distress the affected individual is experiencing
 - You may be a “first responder” if the affected individual has not shared their experience with anyone; listen without judgment and provide information on available supportive resources if appropriate
 - Do not try to counsel the affected individual
- Explain confidentiality limitations at the time of disclosure
 - Do not promise confidentiality!
 - Information will be kept private and shared only on a need-to-know basis
- Make a report promptly and appropriately
 - If an emergency, dial 9-1-1 or campus police



BEST PRACTICES

- What can empathy look like in this situation?
 - *Affirming statements*: “I can’t imagine what you must be going through.” or “I’m sorry to hear this happened to you.”
 - *Acknowledging vulnerability*: “This must be hard to talk about.” or “I appreciate you sharing with me.”
 - *Showing interest*: “How are you feeling?” or “Do you have the support you need?”
 - *Being supportive*: “How can I help you?” or “What are your immediate concerns?” or “I am happy to connect you with support resources on campus.”



REMEMBER THIS ...

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OFFICE CONTACT INFORMATION



Office of Institutional Equity

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OFFICE CONTACT INFORMATION

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QUESTIONS?

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