



EXHIBITS DOCUMENT

Michelle Brewer v. Jacob Tower

The information contained in this report is intended solely for its authorized recipient(s).
If you are not an intended recipient, please contact us immediately at (573) 882-3880.

FORMAL COMPLAINT

January 19, 2024

On this date, I am writing to state that I would like to file a complaint against Jacob Tower for events that occurred on or around January 12, 2024, which constituted harassment on the basis of my: Sex/Gender.

On January 12, 2024, the following incidents occurred at Kappa Zou fraternity house at 155 Main St., Columbia, MO 65201.

I went to a party at Jacob's house. I got there around 10:00 p.m. with my friend, Breanna. Breanna and I had some drinks at her apartment before leaving to go to Jacob's. When we were at the party, I played beer pong and drank a lot because I kept losing. I started feeling sick, so I went to sit down in the living room. I remember talking to Breanna and Jacob in the living room but don't remember much more. I remember being in the living room and the next thing I know I am in Jacob's room. I came to on his bed and he was on top of me. He didn't have a shirt on, and I didn't either. We were kissing and he was touching my breasts. I don't remember getting to his room or taking off my shirt. I remember trying to pull away, but I couldn't. The next thing I remember is waking up the next morning and didn't have any clothes on. I was confused and when I got up, I saw a condom wrapper and used condom in the trash can. I then realized we had sex, but I don't remember any of it.

I am giving the Office of Institutional Equity permission to contact witnesses and proceed with an investigation.

Below are some witnesses who might have information about this: Breanna Lewis

Sincerely,

Michelle Brewer

Exhibit 2

Subject: **Correspondence from the Office of Institutional Equity (Meeting Request)**
Date: Tuesday, January 30, 2024, at 1:12:08 PM Central Standard Time
From: Heidi Shearer
To: Jacob Tower (MU-Student)
Cc: Hayes, Andy
Attachments: JTNotice of Investigation.pdf, JT_No Contact Directive.pdf, 600.010 Sex Discrimination, Sexual Harassment and Sexual Misconduct in Education and Employment Policy.pdf, 600.030 ERP Student.pdf, ERP Flowchart - Student.pdf

Dear Jacob Tower,

Please see the attached correspondence from the Office of Institutional Equity. This is a Notice of Allegations based on a report we received.

Sincerely,
Heidi

Heidi Shearer
Equity Consultant and Investigator
Office of Institutional Equity
145 Heinkel Building
573-884-7065
equity.missouri.edu



145 Heinkel Building
201 South 7th Street
Columbia, MO 65211
573-882-3880

January 30, 2024

VIA ELECTRONIC MAIL

Jacob Tower

RE: Notice of Allegations of Potential Policy Violation

Dear Jacob Tower:

I write to inform you that the University is initiating an investigation into a Complaint alleging that you may have engaged in discriminatory behavior, in violation of University policy. I have been assigned to investigate this matter in a thorough, reliable, and impartial manner.

Please understand, at this point, these are only allegations. At this stage in the process, you are presumed to be not responsible for any violation, and you will be given an opportunity to respond to each allegation.

Please read the contents of this letter and associated information carefully.

- Section I: Allegations
- Section II: Supportive Measures
- Section III: Resolution Process and Applicable Policies
- Section IV: Participation in the Process
- Section V: Your Rights in the Process

Next Steps: Please contact me at shearerh@missouri.edu or 573-882-7065 to confirm receipt of this Notice and to schedule a time to meet. During our meeting, we will review the process, I will answer any questions you have, and you will have an opportunity to respond to the allegations.

Sincerely,

Heidi Shearer
Equity Consultant & Investigator

cc: Andy Hayes, Assistant Vice Chancellor for Institutional Equity

Enclosures

SECTION I
ALLEGATIONS

Michelle Brewer reported that, in the overnight hours of January 12-13, 2024, you engaged in nonconsensual sexual intercourse (sexual assault: rape) with her while she was incapacitated due to alcohol consumption and thus unable to consent to sexual activity, as defined by University policy.

Specifically, Brewer reported the following:

1. Brewer reported arriving at a party at Kappa Zou's fraternity house at 155 Main Street in Columbia, Missouri, around 10:00 p.m. She reported that she consumed alcohol and played games with her friend and other party attendees, and that Tower was present at the party as well.
2. Brewer reported feeling dizzy and nauseous after consuming approximately two shots of vodka prior to arriving at Kappa Zou and an unknown amount of alcohol while playing beer pong. She reported that, due to feeling sick, she sat down on the couch in the living room. She stated that she does not recall much more of the evening because she blacked out for periods of time due to alcohol intoxication.
3. Brewer said that she remembers being in the living room and then being on Tower's bed in his bedroom but has no memory of how she got to Tower's bedroom. She alleges that when she regained consciousness, Tower was allegedly on top of her. She stated that he did not have a shirt on, and her shirt was also removed, but she does not recall removing it. She alleges that he was kissing her and touching her breasts over her bra. She reportedly tried to pull away but was unable to move very much, due to her level of intoxication. Brewer alleges that Tower engaged in Sexual Assault (Fondling) with her while she was incapacitated and unable to consent to sexual activity.
4. She reported that she does not remember anything else about the night. Brewer stated the next morning, she woke up in Tower's bed around 8:30 a.m. and she was fully naked. She reported that she saw a condom wrapper and used condom in the trash can. She reported immediately getting dressed and leaving before Tower woke up. Based on her intermittent memories from that night, waking up naked in his bed, and finding the used condom the next morning, Brewer alleges that Tower engaged in Sexual Assault (Rape) with her while she was incapacitated and unable to consent to sexual activity.

Brewer alleges that Tower engaged in sexual assault (fondling) and sexual assault (rape) while she was incapacitated. Brewer further alleges that nonconsensual kissing and the nonconsensual removal of her clothing created a hostile environment that has negatively impacted her mental health and academic performance

SECTION II
SUPPORTIVE MEASURES

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent. ([Section 600.043\(H\)](#) of the Collected Rules and Regulations (CRR)). If, at any time, you need to review the availability of supportive measures, please contact your Investigator.

1. A 'No Contact Directive' has been issued. Please read it carefully and contact me with any questions. I will inform you of any additional interim measures that may impact you.

SECTION III
RESOLUTION PROCESS

I will conduct the investigation pursuant to: Title IX Resolution Process (CRR [600.030](#)). Under this procedure, you have the following Title IX Resolution Processes available:

Informal (Conflict) Resolution: A voluntary resolution process using alternative dispute resolution mechanisms such as mediation, facilitated dialogue, or restorative justice. (CRR 600.030(O))

Administrative Resolution: A voluntary resolution process where a decision-maker makes a finding on each of the alleged policy violations in the complaint and a finding on sanctions and remedies without a hearing. (CRR 600.030(P))

Hearing Panel Resolution: A Title IX Hearing Panel makes a finding on each of the alleged policy violations. In faculty matters, the Hearing Panel will make recommendations as to any sanctions, if applicable, and the Provost will make the finding on sanctions. In matters involving students or student organizations, the Hearing Panel will make a finding on sanctions and remedial actions. (CRR 600.030(Q))

APPLICABLE POLICIES

The alleged conduct may violate the following provisions of the University's Nondiscrimination Policies: **Sexual Harassment under Title IX Policy ([600.020](#))**

B. Definitions in Section 600.020

1. **Sexual Harassment**. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 - ...
 - b. **"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;

c. **“Sexual assault”** - Any sexual act that constitutes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape, as defined below:

i. **“Rape”** is the carnal knowledge of a 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. There is **“carnal knowledge”** if there is the slightest penetration of the vagina or penis by the sex organ of the other person. Attempted Rape is included.

...

iv. **“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

...

2. **Consent to Sexual Activity.** Consent to sexual activity is knowing and voluntary. Consent to sexual activity requires of all involved persons a conscious and voluntary agreement to engage in sexual activity. Each person engaged in the sexual activity must have met the legal age of consent. It is the responsibility of each person to ensure they have the consent of all others engaged in the sexual activity. Consent must be obtained at the time of the specific activity and can be withdrawn at any time. Consent, lack of consent, or withdrawal of consent may be communicated by words or non-verbal acts.

Someone who is incapacitated cannot consent. Silence or absence of resistance does not establish consent. The existence of a dating relationship or past sexual relations between the Parties involved should never by itself be assumed to be an indicator of consent. Further, consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion and force, or threat of either, invalidates consent.

3. **Incapacitated or incapacitation.** A state in which rational decision-making or the ability to consent is rendered impossible because of a person’s temporary or permanent physical or mental impairment, including but not limited to physical or mental impairment resulting from drugs or alcohol, disability, sleep, unconsciousness or illness. Consent does not exist when the Respondent knew or should have known of the other individual’s incapacitation. Incapacitation is determined based on the totality of the circumstances. Incapacitation is more than intoxication but intoxication can cause incapacitation.

Factors to consider in determining incapacity include, but are not limited to, the following:

- a. Lack of awareness of circumstances or surroundings (e.g., an inability to understand, either temporarily or permanently, the who, what, where, how and/or why of the circumstances; blackout state)
- b. Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
- c. Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
- d. Physical symptoms (e.g., vomiting or incontinence).

SECTION IV
PARTICIPATION IN THE PROCESS

Nothing in the Equity/Title IX process is intended to supersede or expand any rights you may have under applicable state or federal statutory laws, or the U.S. Constitution.

Presumption of Non-Responsibility: At this stage in the process, these are only allegations and you are presumed not responsible for any policy violation. You will maintain this presumption until the conclusion of the Equity/Title IX process, where a determination regarding responsibility is made. During this investigation, you will be given an opportunity to respond to each allegation.

Support Person: You may have a Support Person of your choice present with you for all Equity/Title IX Process interviews and meetings. You may select whomever you wish, including an attorney or parent. The Support Person may not attend the hearing unless they are acting as your Advisor during the hearing.

If you are a student who does not have a Support Person and would like one, you may submit a request to the Office for Civil Rights & Title IX. Upon receipt of your request, the Office for Civil Rights & Title IX may assign a trained Support Person to explain the Equity Resolution Process and attend interviews and meetings with you. University Trained Support Person(s) are administrators, faculty, or staff at the University, who have been trained on the Equity Resolution Process. A Trained Support Person cannot be called upon as a witness in a hearing to testify about matters learned while they were acting in their capacity as a Trained Support Person.

Advisor During the Hearing: Each Party must have an Advisor at the hearing to conduct cross-examination and other questioning on your behalf. You may not directly question any other Party or witness during the hearing; all cross-examination and other questioning on your behalf must be conducted by your Advisor. (Title IX Process Only.)

Your Advisor can be of your choosing and may be, but is not required to be, an attorney. If you do not have an Advisor of your choice present at the hearing, the University will provide one to you at no fee or charge. You may not require that the assigned Advisor have specific qualifications, such as being an attorney.

Review of Evidence: As a Party to the Equity/Title IX proceedings, you will be permitted to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding any responsibility and inculpatory and exculpatory evidence whether obtained from a Party or other source.

False Statements: Throughout the Equity/Title IX process, when making any statement or providing any information or evidence to the University, you must be truthful, and all documentary evidence must be genuine and accurate. False statements and fraudulent evidence may be the basis for personnel action pursuant to applicable HR policies (CRR 370.010 or HR 601), or if by a student, may be the basis for student conduct action pursuant to the provisions of Section 200.010 of the University's Collected Rules and Regulations.

Respondent Right to File a Complaint: You have the right to file a report or Formal Complaint if you believe you have experienced harassment or discrimination. If you file a Formal Complaint against the

Complainant within ten (10) business days of the date of the Notice of Allegations, where the allegations of sexual harassment in both Formal Complaints arise out of the same facts or circumstances, the University will consolidate the Formal Complaints for purposes of investigation and resolution in accordance with this policy. (Title IX Process Only.)

Retaliation: Retaliating, or taking adverse action, against anyone who participates in the process is strictly prohibited and may result in disciplinary action, up to and including expulsion or termination. Please contact me immediately if you believe you are experiencing retaliation.

Privacy: In order to protect the integrity of the investigation and to respect the privacy of those involved, we ask all Parties and witnesses to keep this information as private as possible. This request for discretion is not a mandate or prohibition from discussing the allegations, or from gathering relevant evidence.

Contact Information: All future notices regarding this matter will be sent to your University-issued email account, unless you provide an alternate method of notification to the Title IX Coordinator. If you do not have a University-issued email account, all future notices will be sent via U.S. Mail unless you provide a preferred method of notification.

Disability Accommodation: If you are a person with a disability and believe you may need accommodations for any part of the process, please reach out to me for assistance with your request.

SECTION V
YOUR RIGHTS IN THE PROCESS
TITLE IX (600.030)

1. To be treated with respect by University officials.
2. To be free from retaliation.
3. To have access to University support resources (such as counseling and mental health services and University health services).
4. To request a no contact directive between the Parties.
5. To have a Support Person of the Party's choice accompany the party to all interviews and meetings (excluding hearings) throughout the Title IX and Equity Processes.
6. To refuse to have an allegation resolved through the Informal Resolution Processes.
7. To receive prior to a hearing or other time of determination regarding responsibility, an investigative report that fairly summarizes the relevant evidence in an electronic format or hard copy for their review and written response.
8. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
9. To have Formal Complaints heard in substantial accordance with these procedures.
10. To receive written notice of any delay of this process or limited extension of time frames for good cause which may include considerations such as the absence of a Party, a Party's Advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
11. To be informed of the finding, rationale, sanctions and remedial actions.
12. To report the matter to law enforcement (if applicable) and to have assistance in making that report.

13. To have an opportunity to appeal the dismissal of all or a portion of a Formal Complaint, and appeal the determination of a Hearing Panel or other decision-maker.
14. Additional Rights for Students as a Party:
 - a. To request reasonable housing, living and other accommodations and remedies consistent with Section 600.030(H) and Section 600.040(H).
 - b. To receive amnesty for minor student misconduct that is ancillary to the incident, at the discretion of the Title IX Coordinator.
15. Additional Rights for Hearing Panel Resolution:
 - a. To receive notice of a hearing.
 - b. To have the names of witnesses who may participate in the hearing and copies of all documentary evidence gathered in the course of the investigation and any investigative report prior to the hearing.
 - c. To be present at the hearing, which right may be waived by either written notification to the Hearing Officer or by failure to appear.
 - d. To have present an Advisor during the hearing and to consult with such Advisor during the hearing, and have the Advisor conduct cross-examination and other questioning on behalf of the Party at the hearing.
 - e. To have an Advisor of the University's selection appointed for a Party where the Party does not have an Advisor of their own choice at a hearing.
 - f. To testify at the hearing or refuse to testify at the hearing; however, if a Party or witness fails to submit to cross-examination at the hearing, the Hearing Panel shall not rely on any statement of that Party or witness in reaching a determination regarding responsibility. The Hearing Panel shall not draw any inference about the determination regarding responsibility based solely on a Party's or witness's failure to submit to cross-examination.
 - g. To have an equal opportunity to present and question witnesses, including fact and expert witnesses, and present relevant evidence.
 - h. To request that the hearing be held virtually, with technology enabling participants simultaneously to see and hear each other.
16. Additional Rights for Academic Medical Center Process:
 - a. To receive notice of the meeting with the decision-maker.
 - b. To submit written, relevant questions that a Party wants asked of any Party or witness and to be provided with the answers to such questions.
 - c. To be allowed additional, limited follow-up questions.



Institutional Equity

University of Missouri

145 Hinkle building
201 South 7th Street
Columbia, MO 65211
73-883-3000

January 30, 2024

VIA ELECTRONIC MAIL

Jacob Tower
[REDACTED]

RE: NO CONTACT DIRECTIVE

Dear Jacob Tower:

The Office of Institutional Equity received a complaint containing allegations that you may have engaged in discriminatory behavior, in violation of University Policy (CRR 600.020). As a supportive measure, you are now being directed to abide by the contact restriction below:

Contact Restriction: This letter serves as an official directive that you have no contact with Michelle Brewer. Contact includes, but is not limited to, communication in person, by telephone, email, text message, social media, or other electronic means of communication, or through a third-party (other than an attorney). This also prohibits physical contact.

If you need to contact Brewer, you are to do so via this office. Brewer has been notified of this directive and has been asked to follow the same instructions.

Further contact may result in immediate disciplinary action and the possible involvement of law enforcement.

Non-Retaliation: At no time should you engage in any type of retaliation against anyone who has made a report, filed a complaint, or is otherwise participating in the Title IX Resolution Process. Retaliation is strictly prohibited and would constitute a separate policy violation. Retaliation is any adverse action taken against a person because of that person's participation in protected activity (making a good faith report of discrimination, participating in an investigation, testifying, etc.).

Thank you for your cooperation, and if you have any questions, please contact me.

Sincerely,

Heidi Shearer
Equity Consultant & Investigator

Enclosures

cc: Andy Hayes, Assistant Vice Chancellor & Title IX Coordinator

Exhibit 4



July 11, 2024

VIA ELECTRONIC MAIL

Jacob Tower
[REDACTED]

RE: Notice of Hearing

Dear Jacob Tower:

This letter is to inform you that the University will proceed with Hearing Panel Resolution to address your alleged violations of the University of Missouri Collected Rules and Regulations.

Please read the contents of this letter and associated information carefully.

Section I: Hearing Date and Location

Section II: Hearing Panelist Information

Section III: Investigative Report and Relevant Materials

Section IV: Timeline and Deadlines

Section V: Title IX Resolution Process and Applicable Policies

Section VI: Procedural Information

Privacy: In order to protect the integrity of the investigation and to respect all parties involved, please keep this information private, except for discussions with your support person.

Disability Accommodation: If you are a person with a disability and believe you may need accommodations for any part of the process, please reach out to the investigator of your case for assistance with your request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'A.H.', enclosed in a light blue rectangular box.

Andy Hayes
Assistant Vice Chancellor & Title IX Coordinator

Enclosures

cc: Heidi Shearer Equity Consultant & Investigator

**SECTION I
HEARING DATE AND LOCATION**

Date	Start Time	Location
Thursday, August 8, 2024	9:00 a.m.	Zoom

If any party does not appear at the scheduled hearing, **it will be held, as scheduled, in their absence.** For good cause, the Hearing Officer may grant requests to reschedule the hearing date.

Pre-Hearing Meeting. Unless otherwise agreed by the Parties and the Hearing Officer, a pre-hearing meeting may be scheduled one hour prior to the start of the hearing between the Hearing Officer and Parties' Advisors. Parties may, but are not required to be, in attendance at this meeting. The Pre-Hearing Meeting will be scheduled for 8:00 a.m., August 8.

**SECTION II
HEARING PANELIST INFORMATION**

Panel Members	Alternate Panelists
Amber Lammers* Liz Zufall Mindy Wirges	Samuel Rousch Danielle Sobba

*Amber Lammers has been designated as the Hearing Officer, and they may be reached at lammersa@missouri.edu. Those designated as alternates will attend the hearing in the event that one of the panelists is unable to attend.

**SECTION III
INVESTIGATIVE REPORT AND RELEVANT MATERIALS**

All pertinent documentary evidence and the investigative report for the case have been saved in a One Drive folder. Shortly, you will receive a link from Heidi Shearer to access the documents. If you do not receive a link within 24 hours or have trouble accessing the folder, please contact Heidi Shearer.

SECTION IV TIMELINE AND DEADLINES

Please carefully read the following timeline and make note of the deadlines provided.

PRE-HEARING DEADLINES

- **Pre-Hearing Witness List and Documentary Evidence**

At least fifteen (15) business days prior to the hearing, the Complainant and Respondent will provide to the Investigator a list of the names of the proposed witnesses and copies of all proposed documentary evidence that a Party intends to call or use at the hearing.

Deadline: Thursday, July 18, 2024, at 5:00 p.m. Please submit any proposed additional evidence or witnesses to Investigator, Heidi Shearer, at shearerh@missouri.edu.

- **Objection to Panelists.** If you object to any panelist, you must raise such objection(s), in writing, to the Title IX Coordinator. Hearing Panel members will only be unseated and replaced if the Title IX Coordinator concludes that good cause exists for the removal of a panel member. Good cause may include, but is not limited to, bias that would preclude an impartial hearing or circumstances in which the panel member's involvement could impact the Party's work or learning environment due to current or potential interactions with the panel member (e.g., a panel member being in the same department as either Party). Additionally, any panel member or Chair of the Hearing Panel who feels they cannot make an objective determination must recuse themselves from the proceedings in advance of the hearing.

Deadline: Thursday, July 18, 2024, at 5:00 p.m. Please submit your objection(s) to the Title IX Coordinator, Andy Hayes, at hayesas@missouri.edu.

- **Advisor During the Hearing:** Each Party must have an Advisor at the hearing to conduct cross-examination and other questioning on your behalf. You may not directly question any other Party or witness during the hearing; all cross-examination and other questioning on your behalf must be conducted by your Advisor.

At least ten (10) business days prior to the hearing date, you must inform the Title IX Coordinator whether you intend to bring an Advisor of your choice to the hearing. Your Advisor can be of your choosing and may be, but is not required to be, an attorney. If you do not have an Advisor of your choice present at the hearing, the University will provide one to you at no fee or charge. You may not require that the assigned Advisor have specific qualifications, such as being an attorney.

Deadline: Thursday, July 25, 2024 at 5:00 p.m. Please submit your request to the Title IX Coordinator, Andy Hayes, at hayesas@missouri.edu.

- **Accommodations.** At least ten (10) business days prior to the hearing date, you must inform the Title IX Coordinator whether you are requesting accommodations for the hearing.

Deadline: Thursday, July 25, 2024 at 5:00 p.m. Please submit your request to the Title IX Coordinator, Andy Hayes, at hayesas@missouri.edu.

POST-HEARING

- **Hearing Panel Report.** The Hearing Officer will prepare a written determination reflecting the decision of the Hearing Panel regarding responsibility, sanctions, and remedial actions, if any, and deliver it to the Title IX Coordinator. This report will be delivered to you within 10 business days following the end of deliberations. Any deviations from this timeline will be communicated to the parties.
- **Appeal Rights.** Both parties are allowed to appeal the findings of the Hearing Panel Resolution Process, but appeals are limited to the following reasons:
 - a. A procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures, etc.);
 - b. To consider new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
 - c. The Equity Officer, Investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
 - d. The sanctions fall outside the range typically imposed for this offense, or for the cumulative conduct record of the Respondent.

SECTION V TITLE IX HEARING PANEL RESOLUTION PROCESS AND APPLICABLE POLICIES

Sexual Harassment under Title IX Policy ([600.020](#))

B. Definitions in Section 600.020

1. **Sexual Harassment.** Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 - ...
 - b. **“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;
 - c. **“Sexual assault”** - Any sexual act that constitutes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape, as defined below:
 - i. **“Rape”** is the carnal knowledge of a 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. There is “carnal knowledge” if there is the slightest penetration of the vagina or penis by the sex organ of the other person. Attempted Rape is included.

...

- iv. “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

...

- 2. **Consent to Sexual Activity.** Consent to sexual activity is knowing and voluntary. Consent to sexual activity requires of all involved persons a conscious and voluntary agreement to engage in sexual activity. Each person engaged in the sexual activity must have met the legal age of consent. It is the responsibility of each person to ensure they have the consent of all others engaged in the sexual activity. Consent must be obtained at the time of the specific activity and can be withdrawn at any time. Consent, lack of consent, or withdrawal of consent may be communicated by words or non-verbal acts.

Someone who is incapacitated cannot consent. Silence or absence of resistance does not establish consent. The existence of a dating relationship or past sexual relations between the Parties involved should never by itself be assumed to be an indicator of consent. Further, consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion and force, or threat of either, invalidates consent.

- 3. **Incapacitated or incapacitation.** A state in which rational decision-making or the ability to consent is rendered impossible because of a person’s temporary or permanent physical or mental impairment, including but not limited to physical or mental impairment resulting from drugs or alcohol, disability, sleep, unconsciousness or illness. Consent does not exist when the Respondent knew or should have known of the other individual’s incapacitation. Incapacitation is determined based on the totality of the circumstances. Incapacitation is more than intoxication but intoxication can cause incapacitation.

Factors to consider in determining incapacity include, but are not limited to, the following:

- a. Lack of awareness of circumstances or surroundings (e.g., an inability to understand, either temporarily or permanently, the who, what, where, how and/or why of the circumstances; blackout state)
- b. Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
- c. Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
- d. Physical symptoms (e.g., vomiting or incontinence).

...

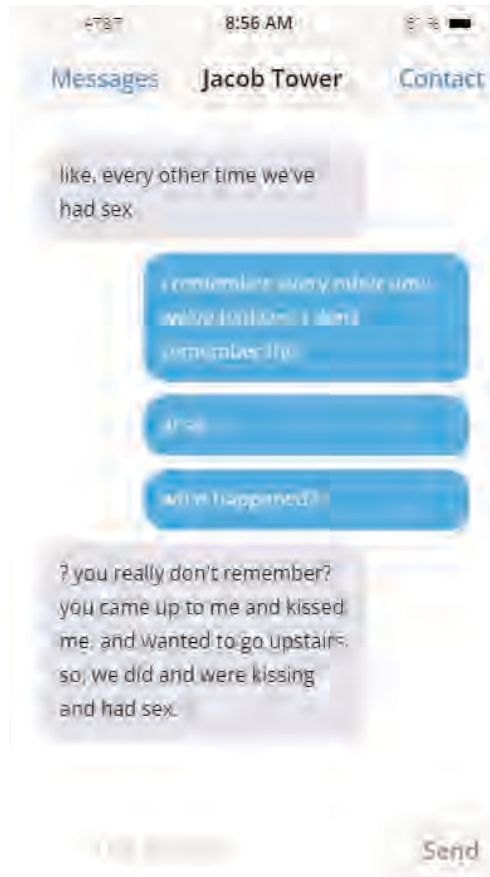
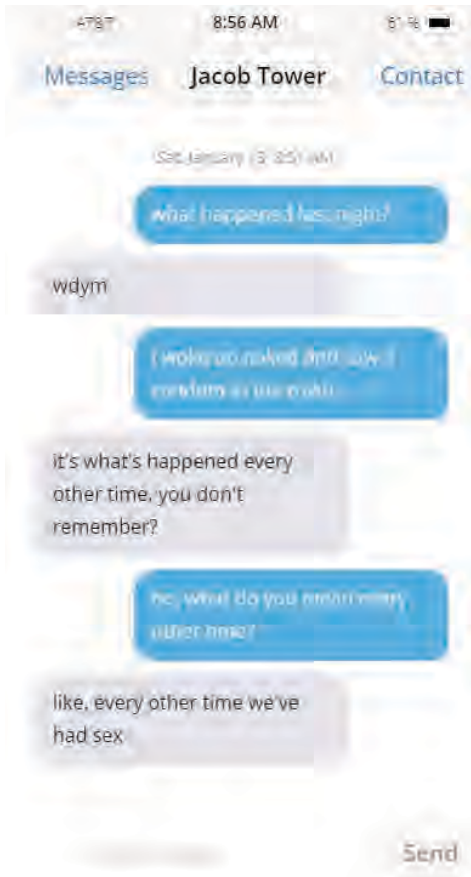
Copies of the applicable anti-discrimination policies and procedures are enclosed for your convenience.

SECTION VI PROCEDURAL INFORMATION

The Hearing is being conducted pursuant to Resolution Process for Resolving Complaints of Sexual Harassment under Title IX ([Section 600.030](#)). For a list of Hearing Process Rules, refer to 600.030(Q)(11).

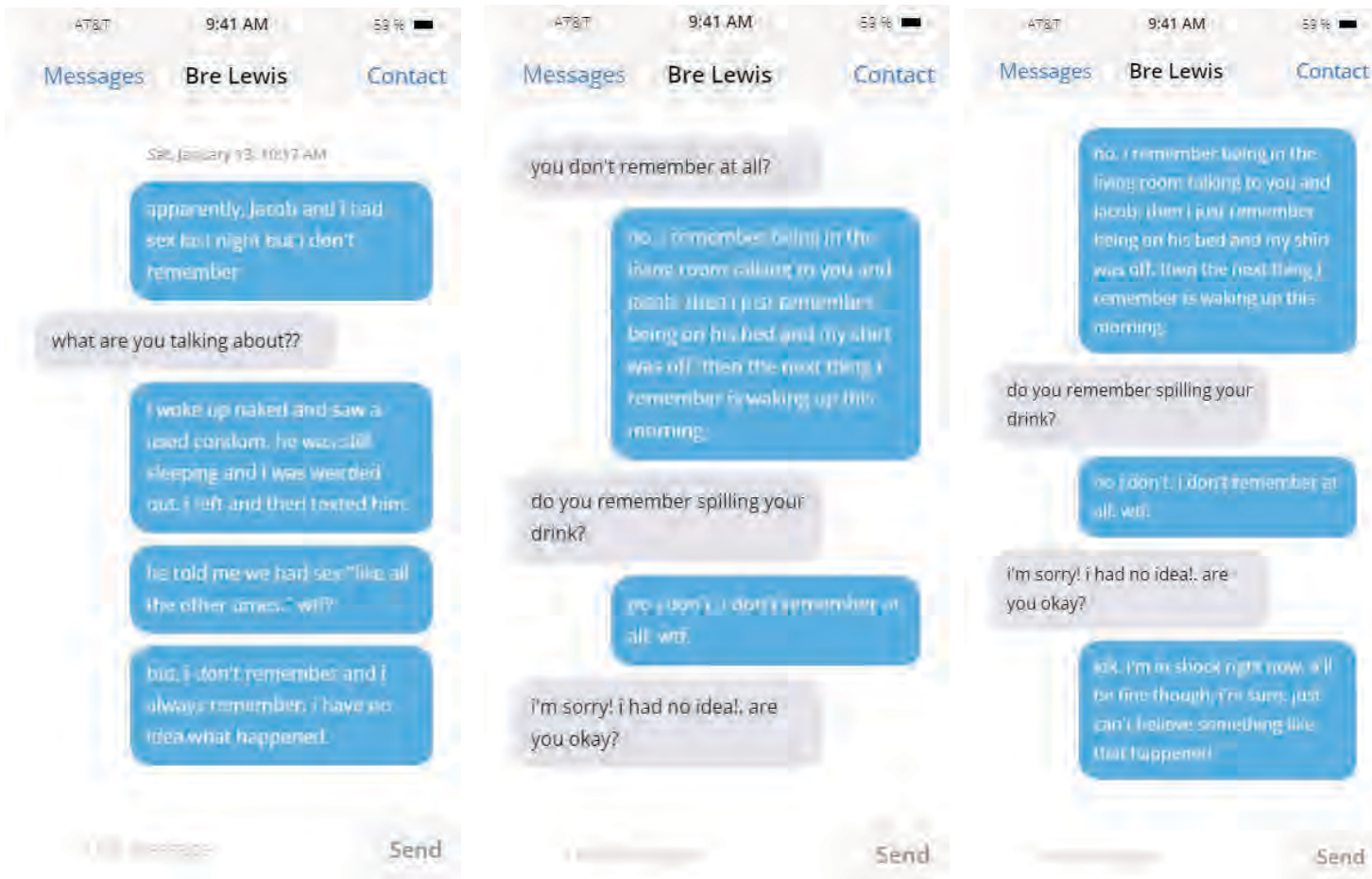
Attendance and Cross-Examination. If a Party or witness does not submit to cross-examination at the hearing, the decision-maker(s) must not rely on any statement of that Party or witness in reaching a determination regarding responsibility, but no inference can be drawn from the fact that a Party or witness failed to submit to cross-examination.

Exhibit 5



Screenshots of text messages between Brewer and Tower, provided by Brewer.

Exhibit 6



Screenshots of text messages between Brewer and Lewis, provided by Lewis.