Title IX 101
Understanding the Basics
September 2021

Title IX

Sexual Harassment

“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 of the Education Amendments of 1972
Title IX Sexual Harassment

• Categories of Prohibited Conduct (that occurs on the basis of sex):
  • Quid Pro Quo
  • Hostile Environment
  • Sexual Assault
  • Dating Violence / Domestic Violence
  • Stalking

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
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    - 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
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    - 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
  - **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
    - Example: 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
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    - ex: fondling = touching of the private body parts of another person for the purpose of sexual gratification, without consent
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    - Example: Unlawful sexual contact involving sexual intercourse with an unconscious or incapacitated person.
  - **Dating Violence / Domestic Violence**
    - Current/former relationship, current/former spouses, child in common, cohabitate.
  - **Stalking**
    - Course of conduct directed at a specific person that would cause a reasonable person to fear for safety or suffer substantial emotional distress.

Jurisdiction

- Power / authority for the University to take action over 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.
Process and Procedure

Report & Intake

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
  - Examples: mutual restrictions on contact, counseling/support services, adjusting course, assignment and/or exam schedules, altering on-campus housing assignment
- Balancing act:
  - Restore or preserve equal access to the University program or activity 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
Process and Procedure

Who's Who?

- **Complainant**: Individual alleged to have been subjected to conduct that may constitute discrimination or harassment.
- **Respondent**: Individual who has been reported to be the perpetrator of conduct that could constitute discrimination or harassment.
- **Support Person**: Individual selected by a Party to provide support and guidance throughout the Title IX Process.
- **Advisor**: Individual who will conduct cross-examination and other questions on behalf of a Party at a hearing.
- **Hearing Officer**: Individual who will preside over and rule on objections and the relevancy of questions and evidence during a Title IX hearing.
- **Equity Resolution Appellate Officer**: Individual appointed to review a prior decision of a decision-maker(s).

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
  - Case Resolution/Adjudication
Process and Procedure

Which process?

The Processes

**Title IX**

- Informal Resolution
- Hearing Panel Resolution
- Academic Medical Center (AMC) Process
- Facilitated Dialogue/Mediation
- Administrative Resolution

Available Process

**Informal Resolution**
- Parties must voluntarily agree to use this process in writing
- Available at any time during the process
- Can stop this process at any time and move into the other available processes
- Neutral facilitator will foster dialogue with the Parties to an effective resolution, if possible – includes mediation
- Never available to resolve allegations that an employee sexually harassed or engaged in sexual misconduct with a student

Academic Medical Center Process (Title IX)
- Used to resolve Formal Complaints that arise from a University of Missouri Hospital and Clinic or other designated facility
- Process similar to administrative resolution
- Single decision-maker

**Administrative Resolution (type of Informal Resolution)**
- Single decision-maker
- Both Parties must elect to use this process
- Parties may provide questions for decision-maker to ask the other Party
- Decision-maker will render a decision on responsibility and a decision or recommendation on sanction(s)
- Either Party may appeal

**Hearing Panel Resolution**
- 3-person decision-maker (majority vote)
- Live hearing with testimony and opportunity for questions to be asked of Parties/witnesses
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Who is Entitled to What Process?

Title IX

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- Facilitated Dialogue/Mediation
- Administrative Resolution

- Hearing Panel Resolution

- Academic Medical Center (AMC) Process
  - Handles allegations involving non-student or non-staff
  - Not available to resolve allegations involving an employee sexually harassed or engaged in sexual misconduct with a student

Process and Procedure

Review & Appeal

- Mandatory Dismissal:
  - Conduct alleged does not constitute sexual harassment, even if proved
  - Conduct alleged did not occur in University's education program or activity
  - Conduct alleged did not occur against a person in US

- Permissive Dismissal:
  - Complainant wants to withdraw Formal Complaint or any allegations
  - Respondent no longer enrolled/employed
  - Specific circumstances prevent University from gathering sufficient evidence to reach determination

- Either Party can appeal this decision
Appeals

- Grounds for Appeal:
  1. Procedural irregularity that affected outcome
  2. To consider new evidence that was not reasonably available previously and could affect the outcome
  3. Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias against a Party specifically or generally against Complainants or Respondents
  4. Sanctions fell outside the range typically imposed for the offense or for the cumulative record of the Respondent

- Either Party may appeal to Equity Resolution Appellate Officer within 5 days of receiving decision
- Decision of Equity Resolution Appellate Officer is final

Questions?