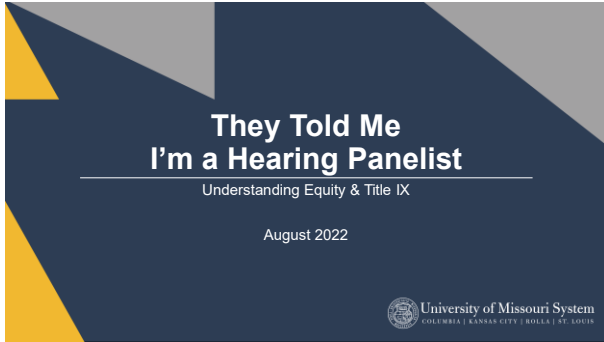




SURVEY QUESTION

▪ Identify the category that best describes your role working in the area of Equity & Title IX? You may identify with more than one.

- ☐ Staff member in an Equity & Title IX office
- ☐ Support Person
- ☐ Advisor
- ☐ Hearing Panelist
- ☐ Appellate Officer
- ☐ Other



Equity

Discrimination & Harassment

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,
- 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 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.

(severe or pervasive) and (objectively offensive)



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 attire 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 applicant graduated from college in 1974.



Equity – Discrimination & Harassment

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"



Title IX

Sexual Harassment

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 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 2022



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



Title IX Sexual Harassment

• 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



Equity – Discrimination & Harassment

Discrimination or Harassment. Conduct that is based upon 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.



Title IX Sexual Harassment

• 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

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



Title IX Sexual Harassment

• Sexual Assault

- Rape
- Sodomy
- Sexual Assault with an Object
- Fondling
- Incest
- Statutory Rape



Title IX Sexual Harassment

• Sexual Assault

- **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.**



Title IX Sexual Harassment

• 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.



Title IX Sexual Harassment

• 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.



Title IX Sexual Harassment

• 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.



Title IX Sexual Harassment

• Sexual Assault

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



Title IX Sexual Harassment

• Sexual Assault

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



Title IX Sexual Harassment

• 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.



Title IX Sexual Harassment

• Domestic Violence

- **Includes felony or misdemeanor crimes of violence** committed by a current or former spouse or intimate partner of the victim, by 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.



Title IX Sexual Harassment

• Stalking

- **Course of conduct** directed at a specific person that would cause a reasonable person to fear for safety or suffer substantial emotional distress

U.S. Department of Education:

Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.



Jurisdiction

Power / authority for the University to act concerning prohibited conduct

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



Jurisdiction

Power / authority for the University to act concerning prohibited conduct

EQUITY

- UM premises or at UM sponsored or supervised functions
- Action may happen for **conduct in other settings including 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/staff member is serving in role of a University employee



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
- 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



Process and Procedure

Investigation

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



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).



Investigation Process

- Report is made
- Intake completed by Equity & Title IX office
-
- **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 & Investigative Report Prepared
- Dismissal / Summary Determination
- Case Resolution/Adjudication



PRACTICE SCENARIO

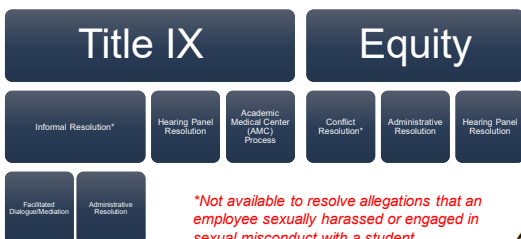
- Chandler tells Joey that Taylor touched his genitals while he was getting his suit altered. Joey reports this to the University Title IX and Equity Office.
- Who is the Complainant?
 - Chandler
 - Joey
 - Taylor
- Who is the Respondent?
 - Chandler
 - Joey
 - Taylor



Process and Procedure

Which process?

The Processes



Available Process

Conflict Resolution / 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

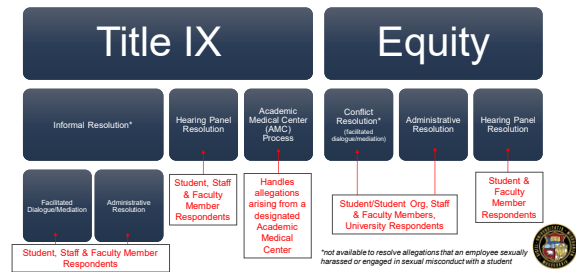
- Single or joint decision-maker
- Both Parties must elect to use this process
- Decision-maker can meet with Parties
- Parties may provide questions for decision-maker to ask the other Party
- Decision-maker will render a decision on responsibility and a decision or recommendation on sanction(s)
- Either 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
- Decision-maker will render a decision on responsibility and a decision or recommendation on sanction(s)
- Either Party may appeal



Who is Entitled to What Process?



Process and Procedure

Review & Appeal

Dismissal & Summary Determination

Title IX

- **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



Dismissal & Summary Determination

Equity

- Equity Officer will review evidence gathered to determine if there is a sufficient basis to proceed with the Complaint that the Respondent is responsible for violating university policy.
- If so, the process will continue.
- If not, the process will end and Parties will be provided notice of the Equity Officer's decision.
- Either Party can request reconsideration of the Equity Officer's summary determination.
- If reconsideration is requested, Equity Resolution Appellate Officer will review Equity Officer's finding and send notice of their findings.
- Equity Resolution Appellate Officer's decision is final.



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?



Scenario 1

- 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.



Scenario 2

- 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.



Scenario 3

- 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.



Scenario 4

- 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.



Scenario 5

- 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.