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Title IX Investigator Training

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SUNY Student Conduct Institute

Meet your facilitator



Rebecca Leitman Veidlinger is an attorney specializing in Title IX and the institutional response to complaints of gender-based discrimination, sexual harassment, and sexual violence. Rebecca has conducted and supervised hundreds of Title IX investigations, and she regularly serves as a Title IX hearing officer for institutions.

Rebecca teaches and trains on school-related sexual misconduct nationwide. As an adjunct professor at the University of Michigan Law School, she teaches a seminar on Title IX, and she frequently provides sexual misconduct prevention and response training to higher education administrators, Title IX implementers, and K-12 personnel. Rebecca was recently appointed as the external co-chair of the University of Michigan's Coordinated Community Response Team, a group that examines the University's prevention and response efforts, identifies areas for growth, and makes policy recommendations to the University's leadership.

Before entering private practice, Rebecca worked at the University of Michigan as a Title IX investigator. She also served as Michigan State University's interim deputy Title IX coordinator, overseeing MSU's creation of a free-standing civil rights investigation unit in 2015. Rebecca is the former sex crimes prosecutor in Monroe County, Indiana (home of Indiana University), where she prosecuted hundreds of cases of domestic and sexual violence involving children and adults.

Our agenda for today



What the regulations say about investigations



Understanding the goals of an investigation



Preparing to investigate



Conducting comprehensive interviews of parties and witnesses

Our agenda for Thursday



Collecting other evidence



Addressing bias



How to do evidence review



Summarizing interviews



Writing investigation reports

Poll: Title IX investigations

- A window will pop up on your screen
- Read the question and the answer options
- Pick the one answer that best fits you
- Sit back and enjoy seeing how your colleagues responded

Title IX of the 1972 Education Amendments

**Title IX Regulations,
Effective Aug. 2020**

“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.”

Before the investigation . . .

Title IX jurisdiction determined by Title IX Coordinator

Allegations fall within definition of Title IX sexual harassment

Title IX Coordinator offered supportive measures to both parties

Notice letters have been issued to both parties

Investigation process under the regulations

- Notice
- Collection of evidence
- Share evidence directly related to allegations with parties
 - Parties have 10 days to review and provide written feedback
- Consider the parties' written responses
- Create investigative report that summarizes relevant evidence
 - Parties have 10 days to review and provide written feedback prior to hearing

A bit more from the Regulations about investigations and the grievance process . . .

- Treat complainants and respondents equitably
- Require an objective evaluation of all relevant evidence
- No conflict of interest or bias in any Title IX implementer
- Include a presumption of nonresponsibility
- Include reasonably prompt time frames for conclusion of the grievance process

And still more. Investigators should:

- Provide equal opportunity for the parties to present witnesses and other evidence
- Provide the parties the same opportunities to have an advisor at all meetings/proceedings
- Provide written notice of date, time and location of all meetings, with sufficient time for party to prepare
- Be adequately trained

And investigators should NOT

- Restrict the ability of either party to discuss the allegations or to gather and present evidence
- Limit the choice or presence of an advisor
- Be biased in favor of one party or the other, or in favor/against complainants generally or respondents generally

Q & A: What the Regulations require

Overarching goals of an investigation



Collect as much reliable and relevant evidence as possible



Utilize a process where the parties are treated fairly and impartially



Write a report that illustrates you did all of the above



Collect all of your investigation materials into a format that is helpful to the decision-maker

Overarching goals of an investigation



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Write a report that illustrates you did all of the above



Collect all of your investigation materials into a format that is helpful to the decision-maker

Preparing to start the investigation

- Review complaint
- Review notice letters
- Review all initial information
- Review relevant policy definitions and think about the kind of questions you'll need to ask
- What facts does the decision maker need to make a determination?

Example: Incapacitation

- When alcohol or other drugs are involved, it is important to understand the level of impairment that results from a person's level of consumption. A person's level of impairment is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.
- Evaluating whether another individual is incapacitated requires an assessment of whether the consumption of alcohol or other drugs has rendered that individual physically helpless or substantially incapable of:
 - Making decisions about whether to engage in Sexual Contact or Sexual Intercourse; or
 - Communicating Consent to Sexual Contact or Sexual Intercourse.
- In evaluating Consent where the question of incapacitation is at issue, the University asks two questions: (1) did the person initiating sexual activity know that the other party was incapacitated, and if not, (2) should a sober, reasonable person, in the same situation, have known that the other party was incapacitated? If the answer to either question is yes, then there has not been consent.

Questions you'll need to ask re: incapacitation

- What objective signs of impairment did Complainant display?
- What of these signs did Respondent observe themselves?
- What was going on in Complainant's head at time of sexual contact?
- Was Complainant helpless in some way?
- What would a reasonable person have thought about Complainant's observable level of impairment?
- And think about: how and who will we ask these questions?

Example: Sexual Harassment

Sexual Harassment is any unwelcome conduct, based on sex, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

Questions you'll need to ask re: sexual harassment

- Specific nature of the conduct (e.g., exactly what was said or done)
- Did Complainant initiate or invite the conduct?
- Frequency of the conduct
- Whether conduct was widespread
- Whether a reasonable person would view the conduct as severe, persistent or pervasive
- And think about: how and who will we ask these questions?

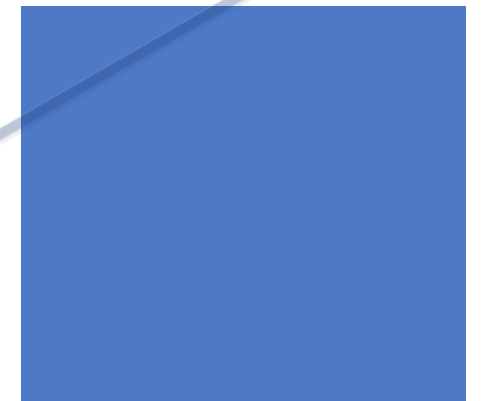
Collection of evidence

Interviews of parties and witnesses

An initial fundamental thing to remember:

The goal of interviews

What techniques can we use to help us achieve that goal?



Principles for every interview

- Reflect neutrality and professionalism alongside appropriate kindness
- Be open to the person you are interviewing
- Be prepared, and show that you are prepared
- Use clear communication
- Be transparent about your role
- Talk like a human being

- Stay in touch with the parties throughout investigation

Use chat to share with all of us:

What are some challenges when it comes to conducting interviews of complainants?

- Chat is located at the bottom of your screen
- Click on Chat, and a window will open up
- In the “to” field, make sure you have the word “everyone”
- Type in whatever you want to share, and press “return”
- Keep the Chat open to see what others share
- You can close the Chat at any time by clicking on the red box in the upper left of the Chat window

Interviewing techniques

- Learning from different systems:
- Child forensic interview
- Trauma-informed interview
- Forensic experiential trauma interview

Interviewing the parties: Structure

- Let the party know what is happening, before you meet and when you meet
- Have a standard way that you explain:
 - Your neutrality
 - Investigative process
 - Prohibition on retaliation
 - Confidentiality, privacy, and disclosure issues related to their statement
- Make a note of every written/electronic item they mention
- Ask for (and discuss) list of witnesses

Interviewing the parties: Structure (cont'd)


- Last question before closing meeting should be open-ended invitation for them to add anything
- Review items of evidence discussed
- At end of meeting:
 - Remind them of next steps and resources
 - Close with a bit of comfortable conversation

And some things you will never ask about:

- Complainant's sexual predisposition or prior sexual behavior, unless offered to prove that someone other than respondent committed the alleged conduct or concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent
- Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege
- Treatment records of a party maintained by a physician, psychiatrist, psychologist, or similar provider unless party gives written consent

What does
the typical
complainant
interview
sound like?
It could start
like this:

- Skylar, I understand you have raised concerns about an interaction you had with Cal on November 4, 2021.
- How do you know Cal?
- Were you back on campus then or were you still remote due to Covid?
- Starting where makes sense for you, please tell me about your experience with Cal. I'm sure I'll have some follow up questions for you, but I'd first like to hear about your experience in your own words.



Then it could
sound like
this:

- Thank you for sharing your experience. As I mentioned, I do have some follow up questions where I'd like to learn more.
- You mentioned attending a party at Kelly's house before going to Respondent's dorm room.
 - Can you tell me all about the party?
 - I'd like to hear all about that party, like what you did, who you may have interacted with, what prompted you to leave, etc.
 - Who did you go to the party with?
 - What is Kelly's last name?
- You mentioned sending a text message to Respondent an hour after you left their apartment. Do you still have that? Are you willing to share it with me?

Applicable to both party interviews: Transitioning to follow-up questions

- Tell me all about walking to Cal's dorm.
- Help me understand what was going on while you and Skylar were walking to your dorm.
- What were your thoughts and feelings when you first arrived at Cal's room?
- You said you felt trapped. I want to make sure I understand what you mean by feeling trapped.
- I don't want to make any assumptions, so can you explain what you mean when you said that you and Skylar had been "talking" in the two weeks prior to this encounter?
- I am going to ask about what happened once you were on the bed. It's important that I gather as much information as possible about that part of the encounter because the decision-maker will need that information in evaluating the issues in this matter.
- I am going to shift gears now to the morning following your interaction with Skylar.
- What were you hearing while Cal was removing your clothes?
- How did you know Skylar wanted to engage in kissing?

How do you ask a complainant about . . .

Alcohol consumption

Specific details of/surrounding the sexual act

Post-incident initiation of contact by Complainant toward Respondent

Complainant's 18-month delay in reporting incident

Some tough issues

Reluctant party

Verbose party

Party wants lots of witnesses

Party doesn't want a particular witness

Very emotional party

Use chat to share with all of us:

What are some challenges when it comes to conducting interviews of respondents?

- Chat is located at the bottom of your screen
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- In the “to” field, make sure you have the word “everyone”
- Type in whatever you want to share, and press “return”
- Keep the Chat open to see what others share
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How might respondent interviews differ from complainant interviews?

- All the same principles (from prior slides) regarding structure and follow-up questioning apply equally here
- You may have some open-ended questions and some specifically prepared questions
- Be prepared for a demand to know the allegations– and tell them what the allegations are
- Give respondent opportunity to respond to every claim
- Explore all reasons why complainant might have raised the concerns: “Do you have any idea why the complainant would make these allegations?”



Make sure you've collected enough information for decision-maker to make their determination



Relevance



Reliability



Credibility



Weight/
probative
value



Relevant evidence



No definition from the Regulations



Should be interpreted using its plain and ordinary meaning.



Has any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action.

Make sure you've collected enough information for decision-maker to make their determination



Relevance



Reliability



Credibility



Weight/
probative
value



How does a decision-maker assess credibility?

- Motive or bias to give inaccurate account
- Inherent plausibility/logic of account
- Corroboration
- Demeanor
- Relationship to the parties
- Interest, if any, in the outcome of the case-- Anything to gain or lose from the case
- Inconsistency within account? Reasonable/minor or significant?

Make sure you've collected enough information for decision-maker to make their determination



Relevance



Reliability



Credibility



Weight/
probative
value



Complaint: Terry and Taylor

In November 2021, while they were on campus in the Student Activities Building, undergraduate student Taylor Gold made unwelcome sexual comments and sexual advances and inappropriately touched and groped undergraduate student Terry Rodriguez without consent.

Potential policy violations

Sexual harassment (hostile environment)

- Unwelcome conduct, based on sex, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity

Fondling

- The touching of the private body part of another person (buttocks, genitals, breasts) for the purposes of sexual gratification, without the consent of that person

Breakout room exercise

- You don't need to push any buttons!
- You will automatically be put in a breakout room.
- You will see several other colleagues there.
- Review the transcript of interview of Complainant Terry Rodriguez
- (There's a link in the Chat box if you need a copy of the transcript)
- Identify areas where you need to gather more information, and come up with at least five follow-up questions
- You will automatically be moved back into the main session after 15 minutes.

Follow up is necessary regarding:

- The “bizarre” movements Terry saw Taylor make
- The specific words of the “embarrassing comments”
- All about Gray’s laughing
- Context for the comment about Terry’s butt being sculpted
- Does Terry still have the photo that Taylor texted?
- All about the nicknames
- What was the “super creepy” think Taylor was doing with their hand when Terry sat on it
- The names of the food service folks
- Does Terry still have the text exchange from after the food service meeting?

Sexual harassment (hostile environment)

- Unwelcome conduct, based on sex, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity

Fondling

- The touching of the private body part of another person (buttocks, genitals, breasts) for the purposes of sexual gratification, without the consent of that person

Witnesses



Advise witnesses of neutrality, lack of confidentiality and retaliation



Ask about relationship to parties/conversations about interview



Give the witness very little specific information about the allegations

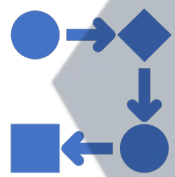


Last question before closing meeting should be open-ended invitation for them to add anything

Advisors during the investigative process

- Emails—who should you communicate with?
- Problematic advisor behavior during interviews
- Advisors who are new to the Title IX process

Following up after initial rounds of interviews



Why might we need to follow up?

Is it okay to follow up?

How do you ask the follow-up questions?

Q & A: Investigative interviews



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Reminder! We already talked about



What the regulations say about investigations



Understanding the goals of an investigation



Preparing to investigate



Conducting comprehensive interviews of parties and witnesses

Our agenda for today



Collecting other evidence



Addressing bias



How to do evidence review



Summarizing interviews



Writing investigation reports

Collection of evidence

Evidence other than interviews

Other
evidence
common in
campus
investigations

- Texts/emails
- Social media posts
- Police reports
- Photos
- Medical records
- Phone records
- Surveillance videos
- Key card swipe records

Issues related to collecting evidence

- Burden is on the institution
- Challenge re: authenticity of an item
- Learning about additional potential policy violations during the investigation



Multiple choice question

- A window will pop up on your screen
- Read the question and the answer options
- Pick the best answer
- Sit back and enjoy seeing how your colleagues responded

Q & A: Collecting other evidence and documenting investigative steps

Bias

- Regulations require that investigators (and all Title IX implementers) be unbiased
- Bias is not an action; it occurs in a person's head
- What is implicit bias?
- Different kinds of bias

Use chat to share with all of us:

How can bias
show up in an investigation?

- Chat is located at the bottom of your screen
- Click on Chat, and a window will open up
- In the “to” field, make sure you have the word “everyone”
- Type in whatever you want to share, and press “return”
- Keep the chat open to see what others share
- You can close the Chat at any time by clicking on the red box in the upper left of the Chat window

What does it mean to be unbiased?

- Don't have a bias for or against complainants or respondents generally
- Don't have a bias for or against an individual complainant or respondent
- Treat parties equally/equitably during interviews
- Seek to interview witnesses identified by both parties
- Don't prejudge the evidence

Evidence review

Share with both parties the evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Understanding directly related

- Regulations don't define directly related
- A broad net– broader than “relevant” evidence
- Preamble says should be interpreted according to its plain and ordinary meaning

Poll: Interview policy

- A window will pop up on your screen
- Read the question and the answer options
- Pick the one answer that best fits you
- Sit back and enjoy seeing how your colleagues responded

Logistics of
evidence
review:

What does
this look like?

- Actual items of evidence
- Transcribed interviews v. unrecorded interview notes
- File-sharing platform
- Preliminary report??

Party response to evidence review

- Both responses will be an additional item of evidence to be included with investigation report
- What do you do when:
 - Party provides new screenshots of text messages
 - Party identifies five additional witnesses who were never mentioned previously
 - Party annotates the other party's interview summary, pointing out all the times they believe the person lied
 - Party points out the ways in which other party's account is contradicted by the surveillance video evidence

Q & A: Avoiding bias and the evidence review process

Investigation report



Investigator must create an investigative report that fairly summarizes relevant evidence



No required structure in Regulations

Overarching goals of an investigation



Collect as much reliable and relevant evidence as possible



Utilize a process where the parties are treated fairly and impartially



Write a report that illustrates you did all of the above



Collect all of your investigation materials into a format that is helpful to the decision-maker

What does it mean to summarize

Transcripts of
recorded
interviews

Written
summaries of
unrecorded
interviews

Police reports

Text messages

Medical records

Surveillance videos

Key card swipe
records

Drafting the interview summary

- Remember relevance
- Chronological narrative
- “Direct quotes”
- When appropriate, note demeanor
- “I don’t know” and “I don’t remember”
- Think about the critical claim and make sure the statement provides sufficient detail around it.

Drafting the interview summary (cont'd)

- Topic sentences
- Show how the information came out
- Send draft of summary (of unrecorded interview) to person for review for accuracy
- Address feedback on the summary of the interview appropriately
- Footnotes

Breakout room exercise

- You don't need to push any buttons!
- You will automatically be put in a breakout room.
- You will see several other colleagues there.
- Review the transcript of interview of Complainant Terry Rodriguez
- (There's a link in the Chat box if you need a copy of the transcript)
- For each highlighted section determine: (1) if you would include that in the summary, and (2) how you would phrase it.
- You will automatically be moved back into the main session after 15 minutes.

Addressing parties' responses to evidence review in investigation report

- Document additional investigative steps and include any additional evidence collected
- Summarize party's position/arguments in section addressing parties' response to evidence review

Investigation report structure—

Suggested sections

- Background
- Allegations from complaint
- Relevant policy provisions
- Procedural steps
- Table of evidence collected
 - Includes parties' responses to the evidence review
 - Indicates who provided each item
- Summary of party interviews
- Summary of witness interviews
- Response to evidence review
- Appendices/Exhibits
 - Including exhibit of irrelevant evidence

Investigation report structure— Background

On November 2, 2021, undergraduate student Skylar Smith (“Complainant”) filed a Formal Complaint against undergraduate student Taylor Jones (“Respondent”) alleging violations of the University’s Title IX and Sexual Misconduct Policy (“Policy”). Following the Title IX Coordinator’s initial assessment and outreach to both parties, on November 14, 2021, the University commenced a formal investigation into the Formal Complaint pursuant to the University’s Title IX and Sexual Misconduct Grievance Procedures (“Procedures”). This Investigation Report details the University’s investigation into those allegations and summarizes the relevant evidence collected.

Investigation report structure— Allegations from Formal Complaint

In their Formal Complaint, Complainant alleged as follows:

[Either include exact language from Formal Complaint, if appropriate].

or paraphrase, such as:

On or about October 7, 2021, when the parties were in Respondent's dorm room in Academia Hall, Respondent repeatedly touched and grabbed Complainant's buttocks even after Complainant told Respondent to stop touching their buttocks, while Complainant was highly intoxicated and unable to consent.

Investigation report structure— Relevant Policy provisions

The allegations in the Formal Complaint implicate the Policy's definitions of Sexual Assault: Fondling, Consent, and Incapacitation.

The Policy defines Sexual Assault: Fondling as

The Policy defines Consent as

The Policy defines Incapacitation as

Investigation report structure— Procedural Steps

DATE	ACTION
7/31/2021	Formal Complaint filed
8/9/2021	Notice letter issued to Complainant and Respondent via email
8/13/2021	Email outreach for interview to Complainant
8/19/2021-8/20/2021	Email outreach for interview to Respondent
8/23/2021	Second interview of Complainant
8/27/2021	Email outreach for interview to Witness 1; sent draft of interview summary to Complainant for review
8/31/2021	Email outreach for interview to Witness 2
9/1/2021	Interview of Witness 1
9/2/2021	Interview of Respondent; sent draft of interview summary to Witness 1 to review
9/3/2021	Second email outreach for interview to Witness 2
9/5/2021	Email from Respondent identifying Witness 5 as witness
9/7/2021	Interview of Witness 2
9/8/2021	Interview of Witness 3, Witness 4
10/4/2021	Draft Investigation Report and Directly-Related Evidence shared with the parties
10/14/2021	Complainant submitted response to Draft Investigation Report and Directly-Related Evidence
10/15/2021	Final Investigation Report and Relevant Evidence submitted to Title IX Coordinator

Investigation report structure— Table of evidence collected

Description	Date	Exhibit
Formal Complaint	September 22, 2021	A
Notice of Investigation to Complainant	November 15, 2021	B
Notice of Investigation to Respondent	November 15, 2021	C
Amended Notice of Investigation to Complainant	November 22, 2021	D
Amended Notice of Investigation to Respondent	November 22, 2021	E
Complainant's initial interview summary	December 10, 2021	F
Complainant's initial response to interview summary	February 8, 2022	G
Complainant's follow-up interview summary	February 21, 2022	H
Screenshots of Snapchat messages provided by Complainant	February 22, 2021	I
Respondent's initial interview summary	December 28, 2021	J
Respondent's initial response to interview summary	February 4, 2022	K
Witness 1's initial interview summary	January 28, 2021	L
Witness 1's response to initial interview summary and additional information	February 12, 2022	M
Irrelevant evidence	Various	N

Investigation report structure— Summary of party interviews

The investigator interviewed both parties via Zoom. Complainant's advisor, Sal Price, was present for their interview. Respondent chose not to have an advisor present for their interview. Prior to the parties' interviews, the investigator advised each party of the following: investigator neutrality, that information shared with the investigator was not confidential and would be shared with the other party and included in the investigation report, and the of University's prohibition on retaliation. The information summarized in the sections below is presented from the perspective of the party interviewed.

Investigation report structure— Summary of witness interviews

The investigator interviewed all witnesses via Zoom. Prior to each witness interview, the investigator advised each witness of the following: investigator neutrality, that information shared with the investigator was not confidential and would be shared with the parties and included in the investigation report, and of the University's prohibition on retaliation. The information summarized in the sections below is presented from the perspective of the witness interviewed.

Investigation report structure— Response to evidence review

On January 24, 2022, both parties provided responses to the evidence review. In their response (Exhibit H), Complainant identified two additional witnesses (Witness 4 and Witness 5) and provided argument regarding the summary of Respondent's interview.

In their response (Exhibit I), Respondent submitted additional text messages exchanged between the parties on the day following the incident (Exhibit J) and provided argument regarding the summary of Complainant's interview and Witness 2's interview.

Other sections I've seen in reports

Narrative section that weaves together all party and witness accounts

Disputed/undisputed facts

Statement of jurisdiction

Identity of investigators

Objective of the investigation

List of training the investigator has taken

Final thoughts on investigation reports



Whole point is to be useful to decision-maker



Think about who else is reading them and how they will use them



Record =
Investigation Report and Evidence



Logistics of sharing record

Q & A: Summarizing relevant evidence and writing the investigation report

Thank you!

I welcome your feedback.

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Investigator

This meeting is with Terry Rodriguez and Terry's advisor, Pat Ngyun. We're meeting today on January 1, 2022. Terry, could you please verify that I've gone over the information sheet with you, that you are aware of your resources and the information about our process, and that you are aware that you are being recorded.

Complainant

Yes, I was given all of the information and I am aware I'm being recorded.

Investigator

Okay, thank you very much. As we discussed, the point of our conversation today is for me to learn about the basis for your claims against Taylor Gold. Let me start by learning about you. Can you tell me what year you are at the University, what kinds of activities you are involved in, and a little about yourself?

Complainant

I am a senior studying journalism and minoring in business. I am involved in tons of activities, including intramural basketball, I write for the University's newspaper, and I am the chair of the publicity committee for the Dance Marathon. I also have a twin sibling at the University, and we live together in the substance-free dorm. I began the application process for the Pre-MBA Club, but I had tons of issues with the kids who run that club. I can go into it if you want me to. They were horrible—bullying and mean—by golly if you want to talk about a hostile environment then you should really take a look at the executive board of the Pre-MBA Club.

Investigator

Tell me about your duties as the chair of the Dance Marathon publicity committee.

Complainant

It's pretty chill except for the three months leading up to the Dance Marathon. Those months, I have to be in the Dance Marathon office in the Student Activities Building nearly every day, because I am writing the ads, designing flyers, designing the t-shirt, sending out mailings, etc.

Investigator

In what ways do you interact with Taylor with respect to the Dance Marathon work?

Complainant

Taylor is the chair of the entire Dance Marathon, which technically makes them my boss. I have weekly check-in meetings with Taylor where I update them about what I am working on. I also have sporadic meetings with Taylor when something comes up—like if I need to confirm the language on a flyer, etc. I also see Taylor around the Dance Marathon office, like around the printer, in the office's kitchen, etc.

Investigator

Tell me about your relationship with Taylor, prior to the issues that are the basis for your claim.

Complainant

Taylor and I lived in the same dorm first year, and Taylor was super nice to me. We had a few classes together over the years and sometimes studied together. I liked Taylor a lot at first.

Investigator

I'd like to turn to learning about your concerns. Starting wherever makes sense to you, will tell me about your experiences that are the basis for your claims?

Complainant

Okay, so Monday, it was November 18th... I'm sorry, Monday, November 15th, 2021. I came in early because the t-shirt printing company needed the new design by 11:00 a.m. that day. Taylor always arrived super early in the morning. There's a fridge in the kitchen area where we can store our lunches, get coffee, etc. It's a really small space and it can get kind of awkward when several people are in there at the same time, especially because I am not the smallest person ever.

I was putting my lunch in the fridge, facing the fridge, and Taylor came up behind me on their way to the coffee machine. I was kind of leaning over because I like to keep my lunch in the bottom vegetable drawer so that no one steals it. I had to rearrange some other stuff in that drawer, so it was taking me a few minutes in front of the fridge. I heard Taylor come in and I could see from the side of my eye that it was them. We said hello and had a quick conversation. I was surprised because Taylor seemed to rub up against my butt, and I think I saw them make, like a movement with their body, the movement was actually bizarre. They made a couple of really embarrassing comments, and I just kept my face toward the fridge and acted like I thought Taylor had just knocked into me unintentionally. I just kept looking forward, I did not turn around. I definitely felt frozen, I didn't know what to say. Then I looked over slightly, because in the lunch nook adjacent to the kitchen—the area with a table for us to eat—was Kyle McMahon. Kyle works on getting donations for the Dance Marathon. Kyle just kept their head down, I'm not sure if they saw what was going on because Kyle was facing away from us.

Then I heard someone laughing a lot, laughing, laughing, laughing, because while this was going on, Taylor is continuing to repeat these embarrassing comments, to me. I couldn't see the person who was laughing but I recognized the voice as Gray Jackson, who is Taylor's vice chair. It seemed like Taylor was enjoying the laughing. I don't know why Taylor thought this was okay.

And then when I think about this incident it makes me realize that Taylor has been doing a lot of stuff that has made me really uncomfortable. Even before this happened, Taylor would make weird comments on my butt. I remember one time when it felt like Taylor out of the blue made this comment about my butt looking sculpted and I didn't know what to say. I think I just laughed it off. It didn't bother me at that point, but looking back, after everything else that happened, I realize how inappropriate the comment was. I always feel like Taylor is looking at my butt when I walk around the Dance Marathon office.

There was this other time that Taylor and I were exchanging text messages about a meeting we both had with the Provost, when we were going to ask the Provost to mention the Dance Marathon in their weekly campus-wide email. At one point we texted about what to wear—neither of us was sure how formal we should be when meeting with someone as important as the Provost. Taylor then texted me a photo of themselves wearing only their skimpy underwear, and I could basically see their entire genitalia, asking, “Do you like me in this?” I guessed they were just making a joke, so I texted back something like LOL looks great. But I was completely shocked when they sent that photo.

So Taylor and I also had these nicknames for each other. I can’t remember how the names got started, I think it had to do with this one project we worked on together that involved putting up a display in the union building about the Dance Marathon. We got creative—we used books about dancing to make kind of a collage. One of the books Taylor was handling was really long, and we called it the “thick book.” So Taylor then took on the nickname of “Thick and Sexy.” Sometimes we shortened Taylor’s nickname to T and S. I was handling a book that was bright red and had flames on the cover, so my nickname was “Hot and Sexy,” which we sometimes shortened to H and S. I didn’t love the nicknames, and I always preferred to shorten it to the initials. But Taylor had nicknames for everybody, it was actually a kind of fun characteristic of Taylor’s, so I guess I thought it was just part of that.

I just remembered one other time when Taylor touched me in a super awkward way. We were in the main Dance Marathon conference room getting ready for a meeting with a few folks from the University’s food service program to discuss the food that would be served to the volunteers. Taylor and I got to the conference room a few minutes early. We had to kind of rearrange the tables in the room because they were set up in a U and we wanted more of a large solid circular table. We then moved the chairs to go around the circular table area, and when I went to sit down in my chair, Taylor put their hand on my chair so that I actually ended up kind of sitting on Taylor’s hand. I was in complete shock. I think it took me a second to realize what was going on, and in that second Taylor said to me, “Do you like this?” Taylor was kind of doing this thing with their fingers that was super creepy too. I jumped up, and just as I did the folks from food service walked into the room. They must have known that something was up. They had to have seen me jump up because I did so very obviously, and it was clear that something was not okay. I was completely red-faced, I didn’t speak during the entire meeting. Taylor sent me a text about two hours after the meeting that said something along the lines of, “Thanks very much for helping me set up the room today for the meeting with the food service folks. I particularly appreciated the way you arranged our chairs. I think we should set up the chairs the same way in the future. Would you like that?” I didn’t really know how to respond to the text. It kind of seemed like a reference to what Taylor had done with their hand, but I guess it also could have been totally innocent. I just responded, “You’re welcome. I think we had a good and productive meeting.”

I guess that’s pretty much it. I don’t know what else to tell you.

Investigator

This meeting is with Taylor Gold and Taylor’s advisor, Campbell Brown. We're meeting today on January 21, 2021. Taylor, could you please verify that I've gone over the information sheet with you, that you are of your resources and the information about our process, and that you are aware that you are being recorded.

Respondent

Yes, I was given all of the information and I am aware I'm being recorded.

Investigator

Okay, thank you very much. As we discussed, the point of our conversation today is for me to hear your perspective regarding Terry Rodriguez’s claims of sexual harassment and sexual assault. Let me start by learning a bit about you. Can you tell me what year you are at the University and the kinds of activities you are involved with?

Respondent

I am a senior majoring in business. I’m the president of the Pre-MBA Club, I am very active in the modern dance group, Lifeblood. I also co-chaired the Dance Marathon last year and am hoping to co-chair it again this year.

Respondent’s Advisor

I want to state for the record that we believe the whole reason Terry made these false claims is because Terry’s twin sibling didn’t get into the Pre-MBA Club, and Terry has had a vendetta against my client ever since they got denied. Terry’s twin also auditioned for Lifeblood, but they only got an alternative role, not a main dance role. It is our position that Terry’s twin must be interviewed as part of this investigation.

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Investigator

Campbell, I need to remind you that under the University’s policy and procedures, the role of the advisor in the interview is a non-speaking role. I want to use this time to hear from Taylor in Taylor’s own words. Taylor, tell me about how you know Terry and the nature of your relationship.

Respondent

I’ll start by saying I never should have appointed Terry as the chair of the Dance Marathon publicity committee in the first place with all their baggage and drama. I hardly know Terry. They only joined the Dance Marathon publicity committee last year, and I don’t have much interaction with them other than our brief committee chair weekly check-ins, which more often than not we cancel because one of us has a different meeting or there just isn’t anything to discuss. I really haven’t gotten to know Terry too much, now that I think about it. I guess we know each other as acquaintances, but nothing more than that.

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Investigator

Thank you for helping me understand that. Let me turn now to the concerns Terry has raised. Terry claims that you made a number of comments of sexual nature over the course of the Fall 2021 semester. Terry described one incident that they said occurred on Monday, November 15, 2021, a day when Terry came into the Dance Marathon office in the student activities building. Terry said it was early in the morning and you and Terry had an interaction in the kitchen. Do you remember this incident?

Respondent

Yes, I absolutely do, because every other single day of the year, Terry refused to come into the Dance Marathon office before noon, because they are lazy. So that was highly unusual for Terry to be in the Dance Marathon office so early.

Investigator

Great, since you remember it, can you please tell me all about your encounter with Terry in the kitchen on November 15, 2021?

Respondent

In the three months leading up to the Dance Marathon, I had to be in Student Activities Building every morning to deal with new registrations, dealing with vendors, etc. I had the same routine every morning. I would get there before most of the others working on the Dance Marathon arrived. I finish my Starbucks at the main desk in the common area while I scrolled through my email inbox. Then I would go to the kitchen to toss my Starbucks cup in the recycling bin. That day, Terry was standing at the open fridge, doing what I used to do when I was a teenager and my mom would get mad—just standing there letting all the cold air out. I was super shocked to see Terry and super annoyed about the wasted energy, especially because I am also on the University's climate action campaign. I said, "Hey Terry, are you trying to cool your jets?" I admit that I kind of elbowed Terry in the side, kind of like how one pal would elbow another pal, but in my case it was more sarcastic because I don't think of Terry as a pal. Terry didn't move, so I asked again something like, "Are you trying to cool your hot motor or something?" I didn't mean anything by it, it's just a dumb saying that came to mind in the moment. Then I noticed that Kyle was in the lunch nook, with their head down, trying not to laugh. Kyle kind of feels the same way I do about Terry, so I guess Kyle just found the whole interaction hilarious, and Kyle was just trying not to bust out laughing. But it didn't matter because Kyle ended up losing it completely, because Gray apparently heard what I said and was cracking up down the hall. I don't know how Gray heard me, but Gray was definitely laughing.

Investigator

Terry said there were a number of occasions when you made comments about their buttocks. Do you ever recall making any comments about Terry's buttocks?

Respondent

No. I am 100 per cent certain that I never made a comment about Terry's buttocks.

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Investigator

Okay, well let me tell you about one of Terry's more specific claims related to comments. Terry said before that incident in the Dance Marathon kitchen, you once commented out of the blue that Terry's buttocks looked sculpted. What is your response to that?

Respondent

Yes, I did make that comment but that's not at all the way it happened. We were actually talking about different kinds of shapewear and which kinds we liked best. The reason we were talking about shapewear was because our Dance Marathon faculty support member got a package delivered to the Dance Marathon office from a company called Spanx, which is the kind of shapewear I like to wear. The package had the word Spanx all over it, so we got to talking about shapewear. Terry said they like to wear the Target-brand shapewear, I forgot what it's called, and I was actually surprised because I would have expected Target-brand shapewear to be poor quality because it's really cheap and Spanx is very expensive. But I looked at Terry and realized that their shapewear looked really good, which made me rethink the Target-brand shapewear.

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Investigator

Thank you for helping me understand that. Do you recall any other times you ever made any comments related to Terry's body?

Respondent

No.

Investigator

Terry talked about members of the Dance Marathon group having nicknames for each other. Can you tell me all about that?

Respondent

We all had nicknames for each other. Kyle calls me Candy, and I call Kyle Francisco, don't ask me why, I can't even remember how we got started—Kyle and I have been working together so long! I call Gray Deuce because Gray always doubles down in every argument and never gives up. I know it sounds crazy, but all the Dance Marathon seniors call me Thick and Sexy. It's not what it sounds like—it's because I kept mispronouncing the last name of one our big donors, a guy who is from Lithuania, from when we were al freshman working and had just begun working on the Dance Marathon. The donor's name was Mario Thikensizy, and I just could not say their name—none of us could, actually. We displayed one of their books in a Dance Marathon display, so we had to say their name constantly for a few weeks. And I kept saying the name wrong, so the nickname just developed from that. It actually has nothing to do with sex. Taylor's nickname is Hot and Sexy, which also comes from a book that was in that display. And

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yes, I agree that Taylor’s name is a reference to sex, because the cover of the book—Taylor was Taylor talked about that book constantly—looked like a typical cover from an old romance novel. But trust me, Taylor did not mind the nickname—in fact, Taylor would sometimes refer to themself in the third person and call themself Hot and Sexy.

Investigator

I’d like to ask about your other communications with Terry. Did you and Terry ever exchange text messages?

Respondent

I think we did, sometimes we had to text about Dance Marathon stuff, like if there was a deadline for printing a flyer or making a decision regarding publicity, or if one of us was working from home or like if there was a difficult vendor that we had to deal with.

Investigator

Did you ever exchange any photos via text?

Respondent

Okay I will admit I made one misstep when I was texting Terry. To be honest, I was at home on Thursday I think it was sometime in February. It was late in the afternoon, and we had a meeting with the Provost regarding a Dance Marathon thing. I had actually forgotten about the meeting, and I smoked a bunch of weed out of my bong about 30 minutes before the meeting. Since I forgot about the meeting, I smoked too much weed and got super high. Terry then texted me asking some questions about the meeting—what time we needed to be there, where to park, something like that. And Terry asked me if they should wear a more formal outfit rather than just regular clothes. I stupidly texted Terry a selfie back, and I think I was basically in my pj’s. I know, it was not a smart thing to do, but it didn’t seem like a big deal at the time.

Investigator

I want to shift gears and ask you about a different part of Terry’s allegation. Terry mentioned another incident that they said occurred in the Dance Marathon conference room when you two were getting ready for a meeting with representatives from food services. Do you remember that incident?

Respondent

I remember being with Terry in the conference room that time, but I don’t recall anything happening.

Investigator

Okay, Terry said when you were rearranging the chairs, you put your hand on their chair so that Terry ended up kind of sitting on your hand, that you said, “Do you like this?” and that Terry then jumped up. What is your response?

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Respondent

That is an obnoxious lie. I never put my hand where Terry could sit on it, and Terry never sat on my hand. I am completely blown away by this allegation. This is total b.s.

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Investigator

Is there anything else you'd like to tell me or think I should know that I haven't asked about?

Respondent

Yes, Terry is a drama magnet and loves to play the victim. When Terry didn't get into the Pre-MBA Club, they falsely accused two members of the executive board of sexual harassment. Those allegations didn't go anywhere.

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Investigator

Thank you for sharing that, and thank you for meeting with me.

VEIDLINGER HYPOTHETICALS
NOT BASED ON REAL EVENTS