

Office of Affirmative Action

Title IX Annual Report

August 1, 2017 – July 31, 2018



March 1, 2019

Dear Members of the University of Missouri-Kansas City Community:

This Title IX Annual Report presents data regarding alleged incidents of discrimination based on sex, gender identity, gender expression, sexual orientation, and pregnancy status as reported to the University of Missouri-Kansas City's Office of Affirmative Action ("OAA") during the Reporting Period between August 1, 2017, and July 31, 2018.¹ Tracking such data allows OAA to monitor UMKC's campus climate over time and to continue identifying opportunities for further training, education, and ongoing efforts to help prevent sex discrimination, including sexual harassment and sexual misconduct, and remediate its impact on the campus community. Further, OAA publishes this data in the interest of transparency, as well as individual and institutional accountability.

Applicable Policies

OAA is tasked with enforcing the University of Missouri Collected Rules and Regulations [Chapter 600 Equal Employment/Educational Opportunity](#), which includes the following:

- Sex Discrimination, Sexual Harassment, and Sexual Misconduct in Education/Employment Policy ([CRR 600.020](#))
- Equity Resolution Processes for Resolving Complaints of Discrimination, Harassment, and Sexual Misconduct:
 - Student or Student Organization ([CRR 600.030](#))
 - Faculty Member ([CRR 600.040](#))
 - Staff Member ([CRR 600.050](#))
 - UMKC Programs, Departments, Institutional Entities ([CRR 600.060](#))

Team Members

OAA is staffed by a team of four individuals dedicated to [UMKC's Key Values](#) of Learning, Diversity, Integrity, Accountability, Respect, and Collaboration. Sybil Wyatt serves as the Associate Director and Title IX Coordinator. KC Atchinson is OAA's Title IX Compliance Specialist and Michael Garvin acts as OAA's Equity Specialist; both are Deputy Title IX Coordinators and Senior Investigators. Christi Roeder supports OAA as Equity Assistant.

We encourage you to review this Title IX Annual Report carefully and to visit OAA's Title IX website for more information: <https://info.umkc.edu/title9/>.

Thank you,



Sybil Wyatt, J.D., M.A., M.S.

¹Not all incidents reported to OAA in this Reporting Period occurred during the same time period. For example, a report that was received in May 2018 may have described incidents occurring in May 2015.

Title IX Annual Report Guide

In addressing alleged instances of discrimination, OAA follows and applies the definitions and processes stated in [Chapter 600](#). For purposes of this Annual Report, OAA provides the following definitions of terms contained within, as well as summaries of the resolution processes.²

Jurisdiction

Jurisdiction of OAA is generally limited to conduct which occurs on University premises or at University-sponsored or University-supervised functions. However, the University may take appropriate action, including, but not limited to, the imposition of sanctions against students, faculty, staff, or University programs, departments, or institutional entities for conduct occurring in other settings, including off-campus in the following situations:

- In order to protect the physical safety of students, employees, visitors, patients or other members of the University community; or
- If there are effects of the conduct that interfere with or limit any person's ability to participate in or benefit from the University's educational programs, activities or employment.

If a Report alleges or a preliminary or full investigation suggests that, in concert with a violation of [Chapter 600](#), a student, faculty, staff, or University program, department, or institutional entity also violated a separate University policy, OAA has the authority to investigate and take appropriate action regarding each of the alleged violations of [Chapter 600](#) pursuant to the Equity Resolution Process. To note, OAA does not conduct criminal investigations, and this Report does not classify criminal behavior.

Conduct Definitions

Sex Discrimination. Sex discrimination is conduct that is based upon an individual's sex, pregnancy, gender identity, or gender expression that adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University activity. Discrimination based on sex may include the following acts:

- Gender identity discrimination occurs when an individual has been treated inequitably based on their gender identity. Gender identity is an individual's "innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth."³
- Gender expression discrimination occurs when an individual has been treated inequitably based on how they express their gender identity. Gender expression is the "external appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine."⁴
- Sexual orientation discrimination occurs when an individual has been treated inequitably based on their sexual orientation, or the "inherent or immutable enduring emotional, romantic or sexual attraction to other people."⁵

² Additional definitions are available by accessing [Chapter 600](#).

³ As defined by the Human Rights Campaign.

⁴ As defined by the Human Rights Campaign.

⁵ As defined by the Human Rights Campaign.

- Pregnancy discrimination occurs when an individual is treated inequitably because of pregnancy, childbirth, or a medical condition related to pregnancy and childbirth.

In addition, sexual harassment, sexual misconduct, sexual exploitation, stalking on the basis of sex, and dating/intimate partner violence, as further defined below, are forms of sex discrimination which are prohibited under this policy.

Sexual Harassment. Sexual harassment is defined as:

- Unwelcome sexual advances or requests for sexual activity by a person or persons in a position of power or authority to another person; or
- Other unwelcome verbal or physical conduct of a sexual nature or because of sex, pregnancy, gender identity, or gender expression when:
 - Submission to or rejection of such conduct is used explicitly or implicitly as a condition for academic or employment decisions; or
 - Such conduct creates a hostile environment by being sufficiently severe or pervasive or 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.

Sexual Misconduct. Sexual misconduct includes the following: 1) nonconsensual sexual intercourse; 2) nonconsensual sexual contact involving the sexual touching of a body part (i.e., the lips, genitals, breast, anus, groin, or buttocks of another person) or the nonconsensual sexual touching of another with one's own genitals whether directly or through the clothing; 3) exposing one's genitals to another under circumstances in which one should reasonably know that the conduct is likely to cause affront or alarm; or 4) sexual exploitation.

Sexual Exploitation. Sexual exploitation occurs when one person takes nonconsensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited and which behavior does not constitute any other form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, the following activities done without the consent of all participants:

- Invasion of sexual privacy;
- Prostituting another person;
- Taping or recording of sexual activity;
- Going beyond the boundaries of consent to sexual activity (e.g., letting your friends hide to watch you engaging in sexual activity);
- Engaging in voyeurism;
- Knowingly transmitting an STI, STD, venereal disease or HIV to another person;
- Inducing another to expose their genitals;
- Nonconsensual distribution of intimate images;
- Use or distribution of drugs or alcohol with intent to facilitate sexual contact without consent (i.e., predatory drugs or alcohol).

Stalking on the Basis of Sex. Stalking on the basis of sex is following or engaging in a course of conduct on the basis of sex with no legitimate purpose that makes another person reasonably concerned for their safety or would cause a reasonable person under the circumstances to be frightened, intimidated, or emotionally distressed.

Dating/Intimate Partner Violence. Violence, threats of violence, intimidation, and acts of coercion committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the recipient of the violent behavior.

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.

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:

- 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)
- Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
- Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
- Physical symptoms (e.g., vomiting or incontinence).

Process Definitions

Incident. An occurrence of alleged behavior that may constitute prohibited conduct under [Chapter 600](#).

Report. Information received by OAA stating that an individual or group has or may have experienced an incident(s) in violation of [Chapter 600](#).

Formal Complaint. When a Complainant requests a formal investigation by OAA of a Report of an alleged violation of [Chapter 600](#), the Report becomes a Formal Complaint.

Retaliation. Retaliation is any adverse action taken against an individual because of their participation in a protected activity such as making a good faith Report of discrimination or for participating in any investigation or proceeding under [Chapter 600](#). Individuals who retaliate will be subject to discipline.

Complainant. The individual alleged to have been subjected to conduct in violation of [Chapter 600](#). In this Annual Report, the term Complainant is used to describe any individual or group who has allegedly experienced behavior that violates [Chapter 600](#), whether or not they choose to pursue a Formal Complaint against the Respondent; it is a general term that applies when a Report is received by OAA, regardless of how a Report is resolved.

University as Complainant. The University may serve as the Complainant when the individual or group alleged to have been subjected to conduct in violation of [Chapter 600](#) chooses not to act as the Complainant in the Equity Resolution Process or requests that the Report not be pursued. Multiple factors are considered by OAA in making this determination, including the following:

- Does the alleged conduct involve sexual/physical violence or use of a weapon or force?
- Is there a risk that the Respondent may commit further acts of sexual/physical violence?
- Have there been other complaints of sexual/physical violence against the Respondent?
- Does the Respondent have a known history of arrests or records indicating a history of sexual/physical violence?
- Are there multiple Respondents?
- Is the Complainant a minor?
- Does OAA have any other means of obtaining relevant evidence?

The presence of one or more of these factors may lead the University to serve as the Complainant. When OAA determines that it cannot honor a Complainant's request for no further action, OAA will inform the Complainant and will share the reasoning. In such cases, OAA will only share information on a need-to-know basis.

Respondent. The individual or entity alleged to have violated [Chapter 600](#). In this Annual Report, the term Respondent is used to describe all individuals or entities that are reported to have violated policy, regardless of whether or not there is a full Formal Investigation.

Parties. The Complainant and the Respondent are collectively referred to as the Parties.

Policy Violation. The classification of a Report into a specific behavior under [Chapter 600](#).

Interim Remedies/Measures. OAA may provide academic, housing, safety, and/or employment assistance to Complainants or Respondents during the Equity Resolution Process. Interim remedies/measures may include:

- Expedited access to Counseling Services and/or Student Health and Wellness; assistance in setting up an initial appointment
- Assisting the Complainant in notifying law enforcement authorities
- Issuance of a No Contact Directive to the Parties
- Safety assistance, i.e., security escorts, increased patrols, etc.
- Transportation assistance if available
- Academic accommodations made with agreement of the appropriate faculty who will not be informed of the specific reason for the request without permission of the requesting Party; these accommodations may include rescheduling exams and assignments, providing alternative course completion options, changes in class schedule, etc.
- Referring the Parties to academic support services, such as tutoring
- Changes in the work schedules or job assignments of the Parties
- Housing modifications or assistance from University staff to complete relocation
- Limiting an individual or organization's access to certain UMKC facilities or activities or the issuance of a No Trespass Directive
- Assisting an individual with a voluntary leave of absence from the University
- Interim suspension of the Respondent from housing, classes, the University campus/facilities/events, and/or all other University activities or privileges for which the Respondent might otherwise be eligible per [Chapter 600](#), when the Title IX Coordinator/Equity Officer believes from the available information that the presence of the Respondent on campus would seriously disrupt the University or constitute a danger to the health, safety, or welfare of members of the University community.

Equity Resolution Processes

Equity Resolution Process. The process by which Reports and Formal Complaints are resolved by OAA, as outlined in [Chapter 600](#).

Preliminary Inquiry/Investigation. Upon receiving a Formal Complaint, OAA conducts a preliminary inquiry/investigation. The purpose of the preliminary inquiry/investigation is to gather enough information to make a threshold decision regarding whether the Formal Complaint describes a possible violation of [Chapter 600](#). If the Formal Complaint describes a possible violation, OAA will commence the Equity Resolution Process and provide appropriate interim remedies/measures. If the Formal Complaint does not describe a possible violation of [Chapter 600](#), the matter will be referred to the appropriate University department/unit for resolution. Under those circumstances, OAA may counsel an individual or entity and/or suggest monitoring or training opportunities to correct inappropriate behavior that does not rise to the level of a violation under [Chapter 600](#).

Investigation. A fact- and information-gathering process during which an Investigator interviews parties and witnesses and collects evidence in various forms. A full Formal Investigation is initiated after a Formal Complaint is submitted to OAA by a Complainant, or after OAA determines the University will act as the Complainant.

Conflict Resolution. The Complainant and/or Respondent may request Conflict Resolution, or mediation of a Formal Complaint, at any time during the Equity Resolution Process, including during the preliminary inquiry/investigation. Upon receiving such a request, or of their own accord, OAA will determine if mediation is appropriate, based upon the willingness of the Parties, the nature of the conduct at issue, and the likelihood of reaching a resolution through mediation. Conflict Resolution is often used for less serious, yet still inappropriate behaviors and is encouraged as an alternative to an Administrative Resolution or Hearing Panel Resolution. To note, mediation is not appropriate in cases involving allegations of nonconsensual sexual intercourse or nonconsensual sexual contact.

Summary Resolution. A Summary Resolution, or dismissal of a Formal Complaint, may be utilized upon a determination by the Title IX Coordinator/Equity Officer (TIXC/EO) that there is an insufficient basis to proceed with the Equity Resolution Process, based on the TIXC/EO's review of the information gathered during a full investigation. If the TIXC/EO dismisses the Formal Complaint, then the process will end and the Complainant and Respondent will be sent written notification of the determination. The TIXC/EO may counsel the Respondent and/or suggest monitoring or training opportunities to correct for inappropriate behavior that does not rise to the level of a violation of [Chapter 600](#). The Complainant may request reconsideration of the Summary Resolution as outlined in [Chapter 600](#).

Administrative Resolution. Following a full investigation, a determination on the merits of the Formal Complaint is made by the Title IX Coordinator/Equity Officer (TIXC/EO). With an Administrative Resolution, the TIXC/EO makes a finding as to whether or not a Respondent is responsible for each alleged violation of [Chapter 600](#). If a Respondent is found responsible for any or all violations, sanctions are determined as outlined in [Chapter 600](#).

Hearing Panel Resolution. Following a full investigation, a determination on the merits of the Formal Complaint is made through a Hearing Panel Resolution, a process by which three trained staff/faculty panelists make a finding as to whether a Respondent is responsible for each of the alleged policy violations. If a Respondent is found responsible for any or all violations, sanctions are determined as outlined in [Chapter 600](#).

Reports of Sex Discrimination, Sexual Harassment, and Sexual Misconduct

Mandated Report. University policy requires any employee of UMKC who becomes aware of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence, or sexual exploitation, to share that information with the Title IX Coordinator, regardless of whether the potential Complainant is a student, employee, volunteer, or visitor of the University. This is sometimes called the “Mandated Reporter” policy and requires employees to share certain information with OAA, including the name of the potential Complainant and any details known and pertinent to the Report. In practice, when employees make a Mandated Report, they are simply connecting students and colleagues to resources that can support them during a potentially difficult time in their lives.

Aggregate Report. The University may designate non-professional counselors or advocates as confidential⁶ and therefore exclude these individuals from the definition of Mandated Reporters. However, these individuals are required once per month to report to the Title IX Coordinator aggregate, non-personally identifiable information regarding all incidents of sex discrimination reported to them. The aggregate data report contains general information about individual incidents of sexual misconduct such as the nature of the conduct, the date and approximate time of its occurrence, and the general location of the incident, i.e., on- or off-campus. As this data does not contain the names of the Complainants or Respondents associated with any Report, the University’s ability to take action to address the alleged conduct may be limited.

Individuals designated by UMKC as exempt from Mandated Reporting include employees of UMKC’s [Violence Prevention & Response](#), the [Staff Ombudsperson](#), and the [Faculty Ombudsperson](#).

Report to Healthcare Provider(s). UMKC employees with a legal obligation or privilege of confidentiality, including healthcare providers, counselors, and their associated staff, are not required to share information regarding sex discrimination with the Title IX Coordinator when the information is learned in the course of a confidential communication. This exemption from the Mandated Reporter policy only applies when the individual is employed by the University for *that specific purpose* and *was acting in that capacity* when the confidential disclosure was made. If the information about alleged sex discrimination is not learned in the course of confidential communication, then the employee must disclose the information to the Title IX Coordinator under the Mandated Reporter Policy. For example, if a healthcare provider learns of an act of sexual misconduct in the medical treatment of a student, the provider is not mandated to report the alleged conduct to the Title IX Coordinator. However, if the healthcare provider is also an instructor at UMKC and learns of said act of sexual misconduct during a one-on-one meeting with the student, the healthcare provider/instructor is considered a Mandated Reporter and must report the act to the Title IX Coordinator, including the name of the Complainant and any relevant details.

Individuals employed by [Counseling Services](#) and [Student Health and Wellness](#) are exempt from the Mandated Reporter Policy due to their legal obligation or privilege of confidentiality.

Self-Report. Individuals are encouraged to contact OAA to report any behavior that may be in violation of [Chapter 600](#). The Title IX Coordinator will connect them to resources, explain their rights and options, and assist them in determining next steps. Students, employees, volunteers, and visitors of the University who have experienced any form of sex discrimination, including

⁶ Confidentiality in this context is not the same as privilege under the law.

sexual harassment or sexual misconduct, are encouraged to promptly make a Report to OAA at (816) 235-1323 or via the Title IX Online Report at <https://info.umkc.edu/title9/reporting/report-online/>. Individuals may also contact Sybil Wyatt, Title IX Coordinator, at (816) 235-6910 or wyattsb@umkc.edu. While everyone is encouraged to make a Report, potential Complainants are not required to make a Report to the Title IX Coordinator.

False Report. [Chapter 600](#) prohibits false reporting. False reporting is a serious offense subject to appropriate disciplinary action ranging from probation up to and including expulsion or termination. A false report is a Report made in bad faith that is intentionally false. A determination that a Report of sex discrimination is false can be made only if the evidence establishes that the Report was intentionally false, and no act of discrimination was either committed or attempted. The Title IX Coordinator can only decide that a Report is false after conducting a thorough investigation. An erroneous Report made in good faith is not considered a false report. Failure to find that a policy violation occurred does not mean that the Report was false, as simply because the University finds that an individual is not responsible for an alleged policy violation does not mean that the underlying Report was false. The determination that a Report is false must be supported by evidence that discrimination did not occur.

Requests for Confidentiality

OAA is committed to protecting the privacy of all individuals involved in a report of sex discrimination, sexual harassment, or sexual misconduct. However, it is important to note that privacy and confidentiality are not the same thing, and absolute confidentiality is not always possible, especially in cases where the University must take action to protect the safety of others.

Privacy. Privacy refers to the discretion that OAA will exercise in the course of the Equity Resolution Process. OAA may share information with a limited number of University employees on a need-to-know basis in order to assist in the assessment, investigation, and resolution of a Report or Formal Complaint. As a general rule, it is the practice of OAA not to disclose information about a Report or Formal Complaint to anyone who is not a Party to the Report or Formal Complaint or is not directly involved in the Equity Resolution Process. However, there are exceptions:

- In order to meet UMKC's legal obligations to provide a safe and nondiscriminatory environment for the campus community as a whole, OAA may override a request for confidentiality, anonymity, or a request to not investigate or take action and pursue an Investigation with the University acting as the Complainant. In this instance, OAA will make every effort to communicate with the Parties involved as to the information that may need to be disclosed, to whom, and why. OAA will also work with the Parties to maximize their safety and privacy to the extent possible.
- It may also be necessary to disclose a limited amount of information when arranging accommodations or interim measures following a report, even if an individual does not want to file a Formal Complaint. For example, if an interim measure/remedy involves an action on the part of the Respondent, OAA must provide enough information to give that individual notice and a minimal reason for the request.

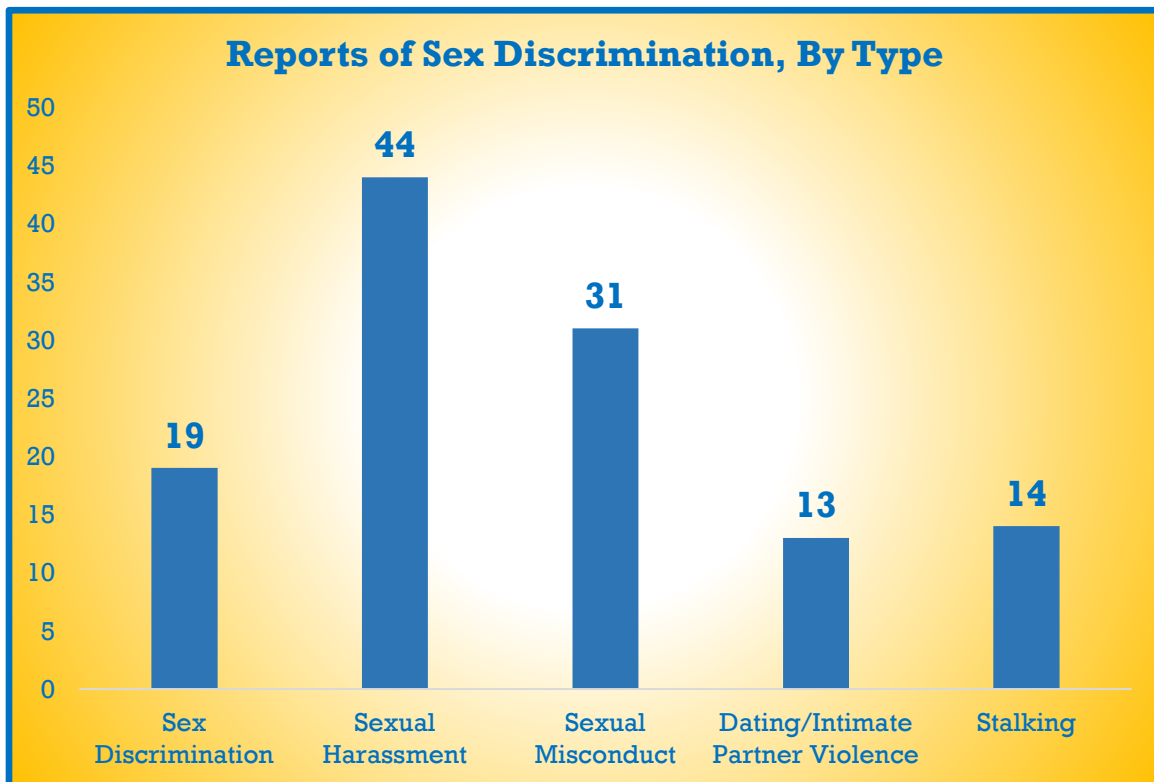
Confidentiality. Some offices at the University operate in a confidential manner, including [Violence Prevention & Response](#), [Student Health and Wellness](#), [Counseling Services](#), the [Faculty Ombudsperson](#), and the [Staff Ombudsperson](#). When an individual shares information with an employee in a confidential role at UMKC, the employee will not disclose the information without the individual's express permission to do so, unless required by ethical or legal obligations, such as a court order, subpoena, or expression of danger to oneself or others.

Title IX Annual Report Statistical Data

Reports Made to the Office of Affirmative Action

Between August 1, 2017, and July 31, 2018, the Office of Affirmative Action received two-hundred forty-two (242) Reports of discrimination, harassment, or retaliation. Of those Reports, twenty-four (24) were determined to be non-jurisdictional, or having a basis unrelated to [Chapter 600](#). Of the remaining two-hundred eighteen (218) Reports, one-hundred twenty-one (121) were based on discrimination against Complainants due to their sex, gender, and/or sexual orientation.⁷

- Sex discrimination: 19 Reports
- Sexual harassment: 44 Reports
- Sexual misconduct: 31 Reports
 - Nonconsensual sexual intercourse: 19 Reports
 - Nonconsensual sexual contact: 10 Reports
 - Sexual exploitation: 2 Reports
- Dating/intimate partner violence: 13 Reports
- Stalking: 14 Reports



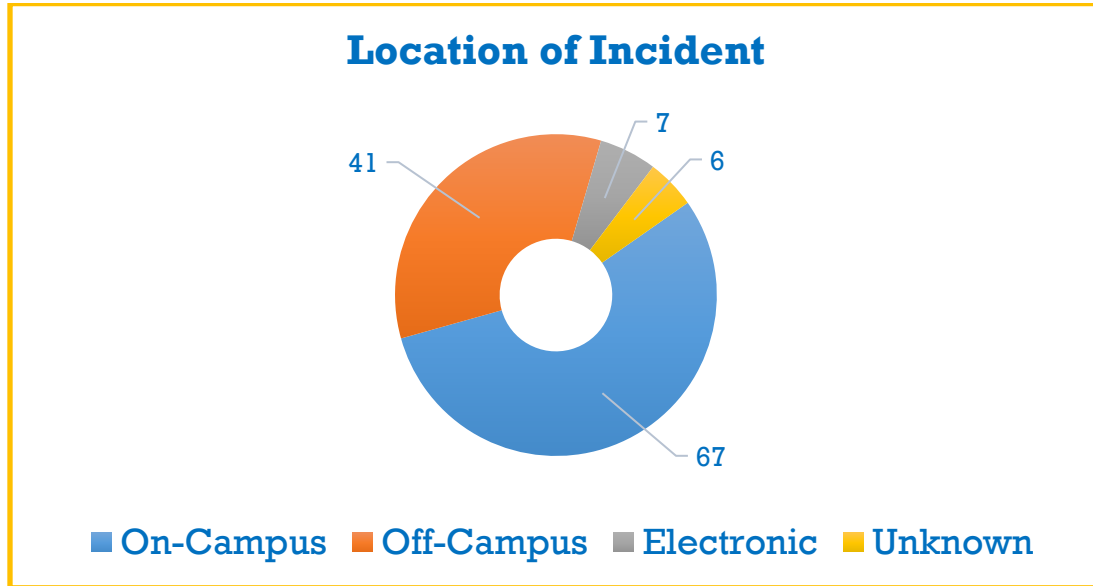
To note, OAA received zero (0) Reports of false reporting.

⁷ The remaining 94 Reports made to OAA were based upon protected class discrimination due to race, color, national origin, ancestry, religion, age, disability, protected veteran status, and/or any other status protected by applicable state or federal law, or Formal Complaints of sex discrimination reported by external agencies. These Reports are contained within OAA's Equity Annual Report.

Location of Incident⁸

Of the one-hundred twenty-one (121) Reports:

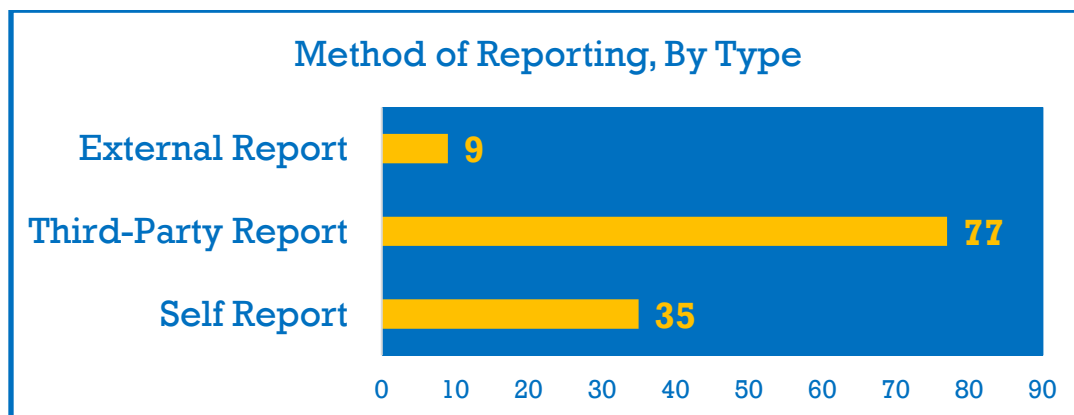
- On-campus: 67 Reports
- Off-campus: 41 Reports
- Electronic: 7 Reports
- Unknown: 6 Reports



Method of Reporting⁹

Of the one-hundred twenty-one (121) Reports:

- Self: 35 Reports
- Third-party: 77 Reports
- External: 9 Reports



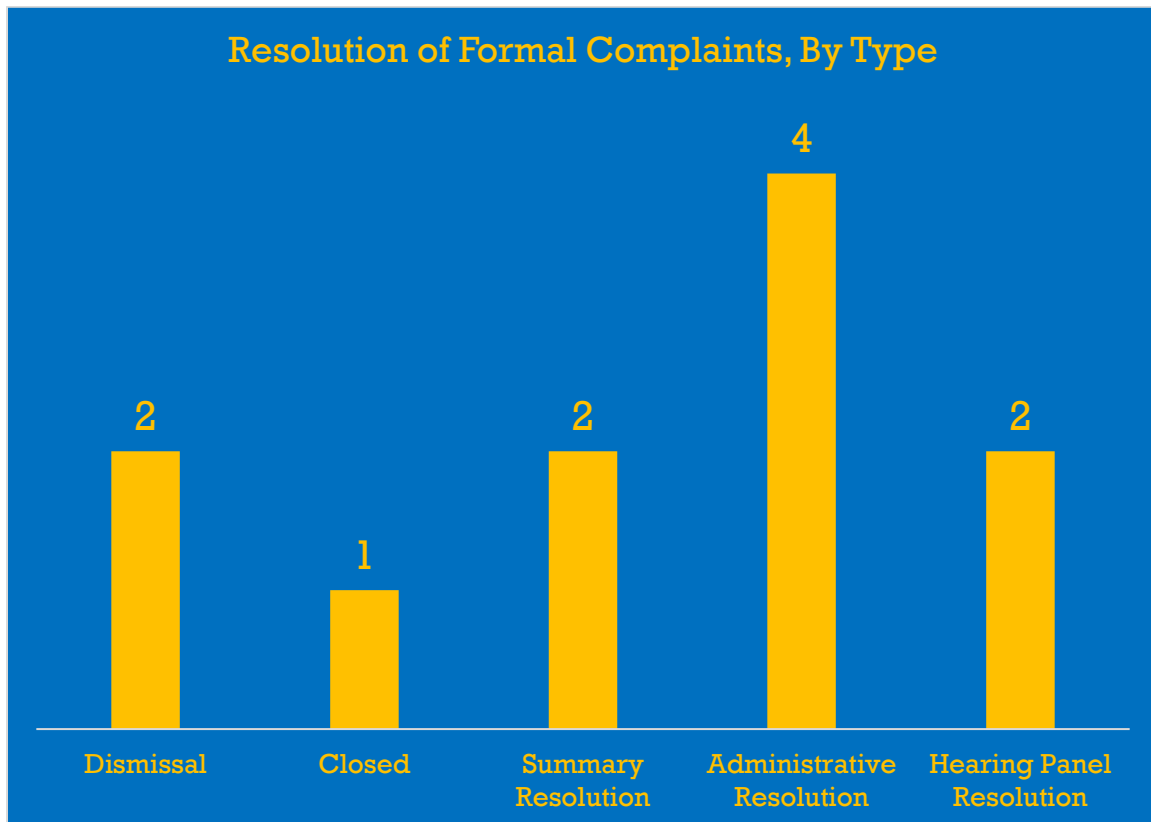
⁸ “Electronic” refers to Complainants who experienced discrimination electronically, i.e., by phone, text message, or online, rather than in a physical, static location.

⁹ “External” refers to Reports received by OAA due to a complaint filed with an external agency such as the Equal Employment Opportunity Commission or the Missouri Commission on Human Rights.

Resolution of Formal Complaints

Of the one-hundred twenty-one (121) Reports, eleven (11) were investigated and resolved through the Equity Resolution Process and nine (9) were investigated in response to complaints made to external agencies. Of the eleven (11) internal Formal Complaints that led to full Formal Investigations:

- Dismissal After Preliminary Inquiry/Investigation: 2 Formal Complaints
- Closed Prior to Conclusion of Investigation: 1 Formal Complaint
- Summary Resolution: 2 Formal Complaints
- Administrative Resolution: 4 Formal Complaints
- Hearing Panel Resolution: 2 Formal Complaints



Appeals Determinations

Both the Complainant and Respondent are allowed to appeal the decision in an Administrative Resolution or Hearing Panel Resolution for the following reasons:

- A procedural error that significantly impacted the outcome of the formal resolution, such as substantiated bias or material deviation from the established procedure;
- To consider new evidence, unavailable during the original hearing that could substantially impact the original finding or sanction; or
- The sanctions fall outside the range typically imposed for the offense or in light of the cumulative conduct record of the Respondent.

Of the four (4) Administrative Resolutions and one (1) Hearing Panel Resolution, no appellate officer overturned any determinations made by the decision-maker.