

**HMBR LITIGATION UPDATE**

**Key 2017 Student Respondent (Sexual Harassment/Misconduct) Litigation**

**FEDERAL COURTS**

Courts	Case Name	Case Citation/Court	Fact Pattern	Claim(s)*	Outcome
<b>1st Circuit</b>				*nonexhaustive listing of claims	
<i>Appellate Court</i>					
<i>District Court</i>	<i>John Doe v. W. New Eng. Univ.</i>	228 F. Supp. 3d 154 (D. Mass. Jan. 10, 2017) (Stipulation of Dismissal on 7/11/17)	Stu suspended for nonconsensual sex	TIX (gender discrimin); State law (contract; good faith/fair dealing; emotional distress)	D's Mot to Dismiss granted in part (emotional distress, TIX), denied in part (contract, good faith)
	<i>John Doe v. Quinnipiac Univ.</i>	No. 3:17cv364 (JBA), 2017 U.S. Dist. LEXIS 49842 (D. Conn. Mar. 31, 2017)	Stu suspended for Intimate Partner Violence, Assault	TIX (erroneous outcome, selective enforcement, and deliberate indifference); State law (contract)	PL's Mot for Prelim Injunc denied
	<i>John Doe v. Amherst College</i>	238 F. Supp. 3d 195 (D. Mass. Feb. 28, 2017) (Stipulation of Dismissal on 8/4/17)	Stu expelled for sexual misconduct	Due process, TIX claims (erroneous outcome, selective enforcement, deliberate indifference); State law (contract)	D's Mot For Judgment granted in part (breach of contract; tortious interference with contract), denied in part (breach of covenant of good faith and fair dealing; Title IX claims)
<b>2nd Circuit</b>					
<i>Appellate Court</i>	<i>Wolff v. State Univ. of N.Y.</i>	678 F. App'x 4 (2nd Cir. Feb. 6, 2017) (Petition for Rehearing denied on 4/21/17)	Stu Dismissed	Due Process; TIX (hostile environment)	Summary Order: D's Sum Jdg Upheld (re: dismissal from program; not sexual harassment case)
<i>District Court</i>	<i>Nungesser v. Columbia Univ.</i>	244 F. Supp. 3d 345 (S.D.N.Y. Mar. 24, 2017) (Appeal to 2nd Cir. Withdrawn 7/10/17)	Stu found responsible for sexual misconduct	TIX (Gender-based harassment)	D's Mot to Dismiss granted
	<i>Rolph v. Hobart &amp; William Smith Colls .</i>	No. 6:16-CV-06515 EAW, 2017 U.S. Dist. LEXIS 153838 (W.D.N.Y. Sep. 20, 2017)	Stu expelled for nonconsensual sex	TIX (erroneous outcome, selective enforcement); State law (contract, promissory estoppel, negligence, emotional distress)	D's Mot to Dismiss denied in part (TIX) and granted in part (State law)
	<i>John Doe v. Colgate Univ.</i>	No. 5:15-CV-1069 (LEK/DEP), 2017 U.S. Dist. LEXIS 180267 (N.D.N.Y. Oct. 31, 2017) (Notice of Appeal filed 11/1/17)	Stu expelled for sexual assault	TIX (erroneous outcome/bias); State law (contract; good faith and fair dealing)	D's Mot for Summ Jdg and to Preclude Testimony of PL's Expert granted
	<i>Radwan v. Univ. of Conn. Bd. of Trs.</i>	No. 3:16-cv-2091(VAB), 2017 U.S. Dist. LEXIS 205575 (D. Conn. Dec. 14, 2017)	Stu (female) scholarship revoked after gesture made on TV	Due Process; Equal Protection; First Amendment	D's Mot to Dismiss granted, in part

3rd Circuit					
Appellate Court					
District Court					
<i>John Doe v. Pa. State Univ.</i>	No. 17-CV-01315, 2017 U.S. Dist. LEXIS 132186 (M.D. Pa. Aug. 18, 2017) (See January 2018 decision: 2018 U.S. LEXIS 3184 (M.D.Pa. Jan. 8, 2018))	Stu accused of sexual misconduct	Due Process; TIX; State law (contract; good faith and fair dealing)	PL Motion for TRO and Prelim Injunction granted (2018 decision: D's Mot to Dismiss granted in part (good faith/reliance); denied in part (due process, TIX, breach of K).	
<i>John Doe v. Trs. of the Univ. of Pa.</i>	No. 16-5088, 2017 U.S. Dist. LEXIS 148086 (E.D. Pa. Sep. 13, 2017) (Joint Motion for Dismissal granted 11/20/17)	Stu suspended for sexual misconduct	TIX (erroneous outcome, selective enforcement, deliberate indifference); State law (contract, emotional distress); race discrimination	D's Mot to Dismiss granted in part, denied in part (TIX - erroneous outcome, selective enforcement)	
<i>Saravanan v. Drexel Univ.</i>	No. 17-3409, 2017 U.S. Dist. LEXIS 193925 (E.D. Pa. Nov. 24, 2017)	Stu expelled for stalking and sexual harassment	Due Process; TIX (erroneous outcome/bias; other bases)	D's Motion denied as to Title IX - erroneous outcome/bias claim	
4th Circuit					
Appellate Court					
District Court					
<i>Armstrong v. James Madison Univ.</i>	No. 5:16-cv-53, 2017 U.S. Dist. LEXIS 84191 (W.D. Va. June 1, 2017).	Alumni membership to gym revoked after sex harassment complaint	TIX; State law	PL's Complaint dismissed	
<i>Jackson v. Liberty Univ.</i>	No. 6:17-CV-00041, 2017 U.S. Dist. LEXIS 122104 (W.D. Va. Aug. 3, 2017)	Stu expelled for violating sexual assault	TIX (gender discrimination); State law (contract, negligence)	D's Mot to Dismiss granted in part (defamation claims survive); TIX claim not part of motion to dismiss	
<i>Gulyas v. Appalachian State Univ.</i>	No. 5:16-CV-00225-RLV-DCK, 2017 U.S. Dist. LEXIS 137868 (W.D.N.C. Aug. 28, 2017).	Stu found responsible for "unlawful entry" and "acts of harm"	Due Process; TIX (gender discrimination)	D's Mot to Dismiss granted (in part - TIX) and denied (in part - Due Process claim)	
<i>Uzoечи v. Wilson</i>	No. JKB-16-3975, 2017 U.S. Dist. LEXIS 145644 (D. Md. Sep. 8, 2017) (Notice of Appeal filed 9/8/17)	Stu sanctioned (while he was in prison)	TIX (gender discrimination), State law (negligence)	D's Mot to Dismiss granted	
<i>Streno v. Shenandoah Univ.</i>	Civil Action No. 5:16-cv-00068, 2017 U.S. Dist. LEXIS 162063 (W.D. Va. Sep. 30, 2017)	Stu dismissed for sex assault	TIX (sexual orientation; erroneous outcome; selective enforcement); Contracts	D's Mot to Dismiss granted	
<i>Painter v. Adams</i>	No. 3:15-cv-00369-MOC-DCK, 2017 U.S. Dist. LEXIS 171565 (W.D.N.C. Oct. 17, 2017) (Stipulation of Dismissal granted on 11/22/17)	Stu responsible for sexual misconduct	Due Process (in hearing and in decision to issue "No Contact Order")	D's Motion for Sum Jdge denied and granted (in part)	

5th Circuit					
Appellate Court	<i>Plummer v. Univ. of Hous.</i>	860 F.3d 767 (5th Cir. June 23, 2017) (Petition for rehearing en banc denied 7/25/17)	Stu expelled	Due process; TIX (selective enforcement, deliberate indifference)	D's Mot for Sum Jdge upheld
District Court	<i>Pacheco v. St. Mary's Univ.</i>	No. 15-cv-1131 (RCL), 2017 U.S. Dist. LEXIS 94510 (W.D. Tex. June 20, 2017)	Stu suspended for sexual harassment	TIX (erroneous outcome, selective enforcement); Fifth & Fourteenth amendment; State law (contract, tort)	D's Mot for Sum Jdge granted
6th Circuit					
Appellate Court	<i>John Doe v. Univ. of Ky.</i>	860 F.3d 365 (6th Cir. June 15, 2017) (Case dismissed on remand to E.D. Ky 10/31/17)	Stu found responsible for nonconsensual sexual activity	P seeks to enjoin Univ from 3rd hearing based on consti violations	Affirm lower ct's decision to abstain, revise dismissal of claims against one defendant, remand to court to stay ruling pending Univ. proceeding
	<i>John Doe v. Univ. of Cincinnati</i>	872 F.3d 393 (6th Cir. Sept. 25, 2017)	Stu found responsible for sexual assault	Due Process	Affirm lower ct. decision to enjoin suspension
	<i>Faparusi v. Case W. Res. Univ.</i>	No. 17-3212, 2017 U.S. App. LEXIS 19593 (6th Cir. Oct. 4, 2017) (Petition for rehearing denied 10/18/17) <i>See related decision.</i>	Stu found responsible for sexual exploitation and disorderly conduct	Due Process; TIX; State law (contract)	Affirm dismissal of PL claims
District Court	<i>John Doe v. Baum</i>	227 F. Supp. 3d 784 (E.D. Mich. Jan. 5, 2017) <i>(See September decision below)</i>	Stu found responsible for sex misconduct	Due Process; TIX (erroneous outcome, deliberate indifference, archaic assumptions); First Amendment; State law	D's Mot to Dismiss granted: PL's motion for temporary injunction denied
	<i>Faparusi v. Case W. Res. Univ.</i>	No. 1:16CV1586, 2017 U.S. Dist. LEXIS 27967 (N.D. Ohio Feb. 28, 2017) <i>See related decision.</i>	Same as above	Same as above	D's Motion to Dismiss upheld
	<i>John Doe v. Ohio State Univ.</i>	239 F. Supp. 3d 1048 (S.D. Ohio Mar. 10, 2017) (US Dep't of ED Mot. to Quash Subpoenas Denied as Moot on 11/17/17)	Stu dismissed for sexual misconduct	TIX (hostile environment, deliberate indifference, erroneous outcome); Due Process	Dismissed in part (TIX - hostile environment, deliberate indifference); Due Process; not dismissed (TIX - erroneous outcome)
	<i>John Doe v. Denison Univ.</i>	No. 2:16-cv-143, 2017 U.S. Dist. LEXIS 53168 (S.D. Ohio Mar. 30, 2017)	Stu found responsible for sexual misconduct	TIX (gender discrim; deliberate indifference); State law	D's Mot to Dismiss granted
	<i>John Doe v. Miami Univ.</i>	247 F. Supp. 3d 875 (S.D. Ohio Mar. 28, 2017) (Note: Notice of Appeal filed 4/18/17)	Stu suspended for sexual assault	Due Process; TIX (hostile environment, deliberate indifference, erroneous outcome)	D's Mot to Dismiss granted
	<i>Herrell v. Benson</i>	261 F. Supp. 3d 772 (E.D. Ky. June 12, 2017)	Stu expelled after sexual misconduct	Due Process	D's Mot to Dismiss granted

	<i>Venegas v. Wright State Univ.</i>	No. 3:16-cv-377, 2017 U.S. Dist. LEXIS 133378 (S.D. Ohio Aug. 21, 2017) (Case terminated on 11/29/17)	PLs expelled for sexual misconduct and hazing	TIX (bias, deliberate indifference, erroneous outcome, selective enforcement); Due Process; Equal Protection; First Amendment; State laws (contract)	Sustain (in part) and overrule (in part) D's Mot to Dismiss
	<i>John Doe v. Wright State Univ.</i>	No. 3:16-cv-469, 2017 U.S. Dist. LEXIS 136225 (S.D. Ohio Aug. 24, 2017) See November decision below.	PLs expelled for sexual misconduct and hazing	Due Process	Sustain D's Mot to Dismiss; granted PL leave to amend
	<i>Nokes v. Miami Univ.</i>	No. 1:17-cv-482, 2017 U.S. Dist. LEXIS 136880 (S.D. Ohio Aug. 25, 2017)	Stu found responsible for sex misconduct	Due Process	PL Prelim Injunc granted
	<i>John Doe v. Case W. Res. Univ.</i>	No. 1:17 CV 414, 2017 U.S. Dist. LEXIS 142002 (N.D. Ohio Sep. 1, 2017)	Stu found responsible for sexual misconduct	TIX (gender bias); Due Process; State Law (contract)	D's Mot to Dismiss granted in part, denied in part (TIX, contract)
	<i>John Doe v. Baum</i>	No. 16-13174, 2017 U.S. Dist. LEXIS 160340 (E.D. Mich. Sep. 29, 2017) See January decision above. (Notice of Appeal filed 10/4/17)	Same as above	Same as above	Mot to Alter/Amend Judgment and Leave to File Amended Complaint denied
	<i>John Doe v. Wright State Univ.</i>	No. 3:16-cv-469, 2017 U.S. Dist. LEXIS 196209 (S.D. Ohio Nov. 29, 2017) See August decision above.	Same as above	Same as above	Overrule PL Motion for Reconsider August 24, 2017 decision (sustaining D's Mot to Dismiss); Judgment entered in favor of D
<b>7th Circuit</b>					
<i>Appellate Court</i>					
<i>District Court</i>	<i>John Doe v. Univ. of Notre Dame</i>	No. 3:17CV298-PPS/MGG, 2017 U.S. Dist. LEXIS 69645 (N.D. Ind. May 8, 2017) (Stipulation to the Dismissal granted on 12/27/17)	Stu dismissed	TIX; State law (contract)	Granted PL's Mot for TRO and Prelim Injunc to allow PL to sit for final exams
	<i>John Doe v. Univ. of Chi.</i>	No. 16 C 08298, 2017 U.S. Dist. LEXIS 153355 (N.D. Ill. Sep. 20, 2017)	Stu found not responsible for sexual assault	Title IX (gender discrimination; deliberate indifference; retaliation); State law	D's Mot to Dismiss, granted in part; denied in part (TIX - gender discrimination and retaliation survive; State law - emotional distress)
	<i>John Doe v. Columbia Coll. Chi.</i>	No. 17-CV-00748, 2017 U.S. Dist. LEXIS 176329 (N.D. Ill. Oct. 25, 2017). (Amend. Complaint filed on 11/7/17; D's Mot to Dismiss filed 12/4/17)	Stu suspended for sexual assault	TIX; State law (defamation; negligence; emotional distress)	D's Mot to Dismiss granted
	<i>John Doe v. Purdue Univ.</i>	No. 2:17-CV-33-PRC, 2017 U.S. Dist. LEXIS 188728 (N.D. Ind. Nov. 15, 2017) (Notice of Appeal filed 12/15/17)	Stu suspended for sexual misconduct	Due Process; TIX (erroneous outcome)	D's Mot to Dismiss granted

8th Circuit					
Appellate Court					
District Court					
	<i>John Doe v. Univ. of St. Thomas</i>	240 F. Supp. 3d 984 (D. Minn. Mar. 1, 2017)	Stu suspended for sex misconduct	Due Process violations; TIX (erroneous outcome, deliberate indifference); State law (contract, good faith and fair dealing, negligence)	D's motion to dismiss granted in part and denied in part (negligence)
	<i>Rossley v. Drake Univ. &amp; Drake Univ. Bd. of Trs.</i>	No. 4:17-cv-00058-RGE-SBJ, 2017 U.S. Dist. LEXIS 199539 (S.D. Iowa Sep. 6, 2017)	Former board member brings suit against Board (on behalf of son)	TIX (retaliation); First Amendment; State law (contract)	D's partial motion to dismiss granted
	<i>John Doe v. St. John's Univ.</i>	No. 17-2413 (PAM/LIB), 2017 U.S. Dist. LEXIS 177373 (D. Minn. Oct. 26, 2017) (Joint stipulation for dismissal granted 1/9/18)	Stu suspended for sexual assault	TIX (erroneous outcome, deliberate indifference); Due Process; State law (negligence, contract)	D's Mot to Dismiss granted
	<i>Perkins v. Univ. of Neb.</i>	No. 4:17CV3070, 2017 U.S. Dist. LEXIS 189255 (D. Neb. Nov. 13, 2017)	Stu banned from campus after altercation	Various	D's Mot to Dismiss granted
	<i>John Doe v. Saint Paul Conservatory for Performing Arts</i>	No. 17-5032 (DWF/FLN), 2017 U.S. Dist. LEXIS 204994 (D. Minn. Dec. 13, 2017)	High School Stu suspended for sexual harassment	Due Process	PL's TRO and Prelim Injunc denied
9th Circuit					
Appellate Court					
	<i>Quade v. Ariz. Bd. of Regents</i>	700 F. App'x 623 (9th Cir. June 28, 2017) <b>(not for publication)</b> (Petition for rehearing en banc denied 8/16/17)	Stu suspended for sex misconduct	TIX (gender disc); Due Process; State Law	Dismissal of all claims upheld (TIX not raised on appeal)
District Court					
	<i>Brainard v. W. Or. Univ.</i>	No. 3:17-cv-0253-SI, 2017 U.S. Dist. LEXIS 63455 (D. Or. Apr. 26, 2017) (see also July 25, 2017 decision granting motion to dismiss)	Stu responsible for violating no-contact order and stalking	Due Process	D's Mot to Dismiss granted
	<i>Austin v. Univ. of Or.</i>	No. 6:15-cv-02257-MC, 2017 U.S. Dist. LEXIS 211687 (D. Or. June 7, 2017) (Notice of Appeal filed 7/3/17)	3 stu expelled for sex misconduct	Due Process; TIX (erroneous outcome, selective enforcement, deliberate indifference): State law (contract, negligence)	Dismiss PL's complaint
	<i>John Doe v. Regents of the Univ. of Cal.</i>	No. 2:15-cv-02478-SVW-JEM, 2017 U.S. Dist. LEXIS 211408 (C.D. Cal. June 8, 2017) (Notice of Appeal filed 7/31/17)	Stu suspended for sex misconduct	TIX (gender bias); Due Process	D's motion to dismiss denied

10th Circuit					
Appellate Court					
District Court					
<i>Neal v. Colo. State Univ. - Pueblo</i>	Civil Action No. 16-cv-873-RM-CBS, 2017 U.S. Dist. LEXIS 22196 (D. Colo. Feb. 16, 2017)	Stu suspended (pending complainant's graduation or disenrollment) for sex misconduct	Due process; TIX (discrimination on the basis of gender); Adm Procedures Act (challenge to issuance of 2011 DCL); State law (contract, good faith and fair dealing, promissory estoppel)	Due process and TIX claims moved forward; dismissed claims against federal defendants, with leave to amend (Later decisions: Aug. 1, and Sept. 11, 2017 - granted Mot to Dismiss claims against defendants)	
<i>Sussman v. Weber State Univ.</i>	No. 2:16-CV-1119-TC, 2017 U.S. Dist. LEXIS 25794 (D. Utah Feb. 22, 2017)	Stu expelled and permanently barred from campus	Due Process	D Mot to Dism granted	
<i>John Doe v. Univ. of Colo.</i>	255 F. Supp. 3d 1064 (D. Colo. May 26, 2017).	Stu expelled after 2 sexual misconduct incidents	TIX (gender bias); Due Process; State law	D's motion to dismiss granted; except for procedural due process claim (dismissed with leave to amend)	
<i>Neal v. Colo. State Univ. - Pueblo</i>	Civil Action No. 16-cv-873-RM-CBS (D. Colo. Aug, 1 2017) <i>See related decisions.</i>	Same as above	Same as above	Granted Mot to Dismiss Claims against CSU; other defendants (including OCR and Dept of Education) remain	
<i>Neal v. Colo. State Univ. - Pueblo</i>	Civil Action No. 16-cv-873-RM-CBS (D. Colo. Sept. 11, 2017) <i>See related decisions.</i>	Same as above	Same as above	Fed. D's Mot to Dismiss granted	
<i>Ruff v. Bd. of Regents of the Univ. of N.M.</i>	No. 16-CV-1140 MCA/LF, 2017 U.S. Dist. LEXIS 163746 (D.N.M. Sep. 30, 2017)	Students indefinitely suspended from football (eventually found "not responsible")	TIX (erroneous outcome)	D's Mot to Dismiss TIX Claim granted, but grants PLs leave to amend complaint	
11th Circuit					
Appellate Court					
District Court					
<i>John Doe v. Lynn Univ., Inc.</i>	No. 9:16-CV-80850, 2017 U.S. Dist. LEXIS 7528 (S.D. Fla. Jan. 19, 2017) (Stipulation of Dismissal filed 3/17/17)	Stu disciplined for sexual misconduct	Appeal of conditions on deposition questions	PL appeal denied in part (re: erroneous outcome), granted in part - opportunity to replead (re: selective enforcement)	
<i>Mancini v. Rollins Coll.</i>	No. 6:16-cv-2232-Orl-37KRS, 2017 U.S. Dist. LEXIS 113160 (M.D. Fla. July 20, 2017) (Amended Complaint filed 8/7/17)	Stu suspended for non-consensual sexual activity	TIX (erroneous outcome, selective enforcement); Due Process; State law (contract; good faith and fair dealing; emotional distress)	Dismissed in part (re: erroneous outcome), not dismissed (State law claims); provided opportunity to replead (selective enforcement)	
<i>John Doe v. Univ. of S. Ala.</i>	No. 17-0394-CG-C, 2017 U.S. Dist. LEXIS 145587 (S.D. Ala. Sep. 8, 2017) (D's Mot to Dismiss Amended Complaint 10/25/17)	Stu suspended for 3rd offense of sex misconduct	Due Process	PL's TRO denied	
DC Circuit					
Appellate Court					
District Court					

State Courts					
Courts		Case Name	Fact Pattern	Claim(s)	Outcome
Connecticut	<i>Leng v. S. Conn. State Univ.</i>	No. CV156053581S, 2017 Conn. Super. LEXIS 161 (Super. Ct. Jan. 18, 2017) (unreported)	Stu Dismissed	Due Process	D's Mot to Dismiss (granted in part)
	<i>Stenzel v. Peterson</i>	No. 17-580 (JRT/LIB), 2017 U.S. Dist. LEXIS 148467 (D. Minn. Sep. 13, 2017)	Stu suspended for sexual violence	TIX (selective enforcement); State law (good faith/fair dealing)	D's Mot to Dismiss granted
	<i>Wesen v. Univ. of Minn.</i>	No. A17-0249, 2017 Minn. App. Unpub. LEXIS 935 (Nov. 13, 2017)	Stu disciplined for stalking	Due Process	Affirming Student Disciplinary decision
New York	<i>Matter of Haug v. State Univ. of N.Y. At Potsdam</i>	149 A.D.3d 1200, 51 N.Y.S.3d 663 (App. Div. Apr. 6, 2017)	Stu expelled for sexual misconduct	Review of disciplinary decision	Annulled disciplinary hearing determination
	<i>Matter of Weber v. State Univ. of N.Y., Coll. at Cortland</i>	150 A.D.3d 1429, 55 N.Y.S.3d 753 (App. Div. May 11, 2017)	Stu dismissed for sexual misconduct	Review of disciplinary hearing	Ct. confirmed Univ. finding
	<i>Matter of John Doe v. Skidmore Coll.</i>	152 A.D.3d 932, 59 N.Y.S.3d 509 (App. Div. July 13, 2017)	Stu expelled for sexual misconduct	Due process violations	Reversed decision; Discipline overturned
	<i>Matter of John Doe v. Cornell Univ.</i>	No. 2017 NY Slip Op 32605(U) (Sup. Ct. Dec. 15, 2017)	Stu suspended for sexual misconduct	Review of disciplinary decision	Transfer to appellate division denied
Ohio	<i>Walker v. Univ. of Cincinnati Coll. of Med.</i>	No. 2017-Ohio-8277 (Ct. Cl. Sep. 29, 2017)	Stu dismissed from Med school	Due Process; State Law (negligence, emotional distress)	D's Mot for Sum Judg granted