

University Policy on Relationship Violence & Sexual Misconduct

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I. Introduction

Michigan State University is committed to maintaining a learning and working environment for all students, faculty, and staff that is fair, humane, and responsible - an environment that supports career and educational advancement on the basis of job and academic performance. Relationship violence and sexual misconduct subvert the mission of the University and offend the integrity of the University community. Relationship violence and sexual misconduct are not tolerated at Michigan State University.

The University will respond to complaints, reports, or information about incidents of relationship violence and sexual misconduct to stop the prohibited conduct, eliminate any hostile environment, take steps to prevent the recurrence of the prohibited conduct, and address any effects on campus or in any University programs and activities regardless of location.

The purpose of this policy is to define relationship violence and sexual misconduct, describe the process for reporting violations of the policy, outline the process used to investigate and adjudicate alleged violations of policy, and identify resources available to members of the University community who are involved in an incident of relationship violence or sexual misconduct.

II. Applicability and Prohibition

This policy applies to all members of the University community - faculty, staff, and students – regardless of gender, sexual orientation, or gender identity. Members of the University community shall not engage in relationship violence or sexual misconduct against employees, students, or third parties.¹ Persons who do so are subject to disciplinary action, up to and including discharge for employees and dismissal for students. The University also prohibits sexual misconduct by third parties towards members of the University community. The University prohibits retaliation, including retaliatory harassment, against individuals who report relationship violence or sexual misconduct or who participate in the University's investigation and handling of such reports.

This policy applies to all forms of relationship violence, stalking, and sexual misconduct committed by or against a member of the University community when:

- The conduct occurs on campus;
- The conduct occurs off-campus in the context of University employment, education, or research programs or activities, including but not limited to MSU-sponsored study abroad, internships, graduate/professional programs, intercollegiate athletics, or other affiliated programs; and/or

¹ A third party is an individual who is not a member of the University community (faculty, staff, or student) such as a visitor or guest, contractor, alum, or student from another institution.

- The conduct occurs off-campus outside the context of a University program or activity but has continuing adverse effects on campus or in any University program or activity.

III. Gender Discrimination

Title IX of the Educational Amendments of 1972 prohibits gender discrimination at institutions of higher education. The University prohibits gender discrimination in any of its programs or activities. Sexual harassment, including sexual assault and other kinds of sexual violence, is a form of gender discrimination. This policy and its related procedures apply to complaints alleging all forms of gender discrimination (including sexual harassment, sexual assault, and sexual violence) against employees, students, and third parties. For the purposes of this policy, references to sexual misconduct include all forms of sex discrimination, including sexual and gender-based harassment, assault, and violence.

IV. Title IX Coordinator

The University's Title IX Coordinator oversees the University's gender equity work to ensure compliance with Title IX, including its grievance procedure, education/prevention efforts, and training. The Title IX Coordinator reviews information about relationship violence and sexual misconduct complaints to identify and address any patterns or systemic problems that arise during the review of such complaints. The Title IX Coordinator is available to meet with any member of the University community or campus organization that would like to discuss the University's Title IX compliance or work involving matters of sex discrimination, including sexual and gender-based harassment, assault, or violence.

Contact Information:

Jessica Norris
Office of Institutional Equity
4 Olds Hall
East Lansing MI 48824
(517) 353-3922
oie@msu.edu

V. Office of Institutional Equity (OIE)

The Office of Institutional Equity (OIE) is responsible for the University's compliance with federal and state laws and University policies and procedures regarding discrimination, harassment, relationship violence, stalking, and sexual misconduct. The Office is responsible for investigating all allegations of prohibited discrimination and harassment, relationship violence, stalking, and sexual misconduct, and provides training to recognize and prevent such incidents. The Office also collaborates with other campus offices to encourage best practices to promote a culture of inclusion. The Director of the office is designated as the Deputy Title IX Coordinator for Investigations. The Deputy Title IX Coordinator for Investigations is available to advise any individual, including the claimant, respondent, or a third party, about University and community resources and reporting options and is available to provide assistance to any University employee

regarding how to respond appropriately to a report of relationship violence, sexual misconduct, or stalking.

Contact Information:

Office of Institutional Equity
4 Olds Hall
East Lansing MI 48824
(517) 353-3922
oie@msu.edu

VI. Relationship Violence and Sexual Misconduct

“Relationship violence” and “sexual misconduct” are broad terms that encompass sexual harassment, sexual violence, domestic violence, dating violence, and stalking. Definitions for each of these terms are provided below.

VII. Relationship Violence

“Relationship violence” is a broad term that encompasses domestic violence, dating violence, and stalking. Definitions for each of these terms are provided below.

A. Domestic Violence

Domestic violence is defined as an act of violence² committed by any of the following individuals:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A resident or former resident of the victim’s household³

² It is important to note that domestic violence often includes ongoing emotional, psychological, and fiscal abuse. While this Policy addresses physical acts of domestic violence, individuals experiencing other facets of relationship violence should seek help from campus resources, regardless of whether the abuse is occurring on campus.

³ For the purposes of this Policy, individuals are not covered within the scope of this definition solely by virtue of their status as a roommate or former roommate in University housing or as a co-tenant or former co-tenant in off-campus housing shared with other students. Such individuals may, however, face student conduct proceedings or criminal consequences for engaging in such conduct.

An incident of domestic violence can consist of a single act of violence⁴ or a pattern of violent acts that includes, but is not limited to, sexual or physical abuse.⁵

B. Dating Violence

Dating violence is defined as an act of violence⁶ committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim that does not fall within the definition of “domestic violence.” For the purposes of this definition:

- Whether the relationship is of a romantic or intimate nature is determined by a variety of factors, including the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- A relationship of a romantic or intimate nature means a relationship that is characterized by the expectation of affection or sexual involvement between the parties.
- An incident of dating violence can be a single act of violence or a pattern of violent acts that includes, but is not limited to, sexual or physical abuse,⁷ or the threat to engage in such abuse.

C. Stalking

Stalking is defined as engaging in a course of conduct that is directed at a specific person that would cause a reasonable person to feel fear for herself or himself or for the safety of others, or to suffer substantial emotional distress.⁸

- A “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

⁴ To assess for the presence of “abuse” in the domestic violence context, the following factors are considered: (a) power differential between the parties; (b) existence of fear by either party, tied to specific behaviors that can determine abuse; and (c) context of behavior (e.g., a history of coercive controlling tactics by one party over the other; one party acting in self-defense or in response to recent violations, abuse, threats or coercive tactics).

⁵ Domestic violence is a crime under Michigan law. Specific information about the criminal offense can be found in the Michigan penal code at MCLA § 750.81 and MCLA § 750.81a and in Appendix C.

⁶ Dating violence often includes ongoing emotional, psychological, and fiscal abuse. While this Policy addresses physical acts of dating violence, individuals experiencing other facets of relationship violence should seek help from campus resources, regardless of whether the abuse is occurring on campus.

⁷ Dating violence is a form of domestic violence under Michigan law. Specific information about the criminal offense can be found in the Michigan penal code at MCLA § 750.81 and MCLA § 750.81a and in Appendix C.

⁸ Stalking is a crime under Michigan law. Specific information about the criminal offense can be found in the Michigan penal code at MCLA § 750.411h and MCLA § 750.411i and in Appendix C.

- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical treatment or professional counseling.
- A “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, texts, cell phones, or other similar devices or forms of contact are used. This policy prohibits all stalking, not just stalking that occurs within the context of a relationship.

VIII. Sexual Misconduct

“Sexual misconduct” is a broad term that encompasses sexual harassment, sexual violence, and sexual exploitation. Definitions of relevant terms and a discussion of First Amendment protections are included below.

A. Sexual Harassment

Sexual harassment is a form of unlawful gender (sex) discrimination. "Sexual harassment" means unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome behavior of a sexual nature. Sexual harassment violates University policy when:⁹

1. Submission to such behavior is made, explicitly or implicitly, a term or condition of an individual's employment or status in a course, program, or activity; or
2. Submission to or rejection of such behavior is used as a basis for a decision affecting an individual's employment or participation in a course, program, or activity; or
3. Such behavior is so severe, persistent, or pervasive that a reasonable person would find that it:
 - a. Alters the terms or conditions of a person's employment or educational experience, or
 - b. Unreasonably interferes with an individual's work or performance in a course, program, or activity, thus creating a hostile or abusive working or educational environment.

A person's subjective belief alone that behavior is offensive does not necessarily make that behavior sexual harassment. The behavior must also be objectively offensive.

⁹ Discrimination or harassment based on gender that does not involve unwanted sexual attention is prohibited gender discrimination under the University's Anti-Discrimination Policy and is investigated by the Office of Institutional Equity using the same process described in this policy. Gender-based harassment includes harassment based on sex or gender, gender identity, or gender expression, which may include acts of intimidation or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

In determining whether behavior is sexual harassment, the totality of the circumstances, including the nature of the behavior and the context in which it occurred, must be considered. Sexually harassing conduct often involves a pattern of offensive behavior. A single incident may also constitute sexual harassment, depending on the severity of the conduct and on factors such as the degree to which the conduct affected the student's education or the employee's work environment; the type of conduct; and the relationship between the alleged harasser and the student or employee. The conduct does not have to be directed at a specific person or persons to constitute harassment.

B. Examples of Sexual Harassment

Many kinds of behavior may fit within the preceding definition of sexual harassment. Speech and expressive conduct can also be sexual harassment. The following is a non-exhaustive list of examples of behavior that might fall within the preceding definition of sexual harassment:¹⁰

- Sexual violence, including sexual assault, rape, and sexual exploitation
- Threats or insinuations that lead the recipient reasonably to believe that granting or denying sexual favors will affect her or his reputation, education, employment, advancement, or standing within the University
- Sexual advances, sexual propositions, or sexual demands that are not agreeable to the recipient
- Unwelcome sexually explicit material sent by email, text message, or other electronically transmitted communication
- Sexual misconduct such as stalking, cyberstalking, recording or transmitting sexual images without an individual's permission, and voyeurism
- Unwelcome and persistent sexually explicit statements or stories that are not legitimately related to employment duties, course content, research, or other University programs or activities
- Repeatedly using sexually degrading words or sounds to a person or to describe a person
- Unwanted and unnecessary touching, patting, hugging, or other physical contact
- Recurring comments or questions about an individual's sexual prowess, sexual deficiencies, or sexual behavior

Behavior of a sexual nature that is not sexual harassment may nonetheless be unprofessional in the workplace, disruptive in the classroom, or violate other University policies and, like other behavior that is unprofessional, disruptive, or violates policy, could warrant discipline.

C. First Amendment Protections

This Policy shall not be interpreted to abridge First Amendment rights or to infringe academic freedom, as defined in the Faculty Handbook, the Faculty Rights and Responsibilities policy, the Outside Speakers Sponsored by Registered Student Organizations policy, and the document entitled Student Rights and Responsibilities at Michigan State University. The protections of the

¹⁰ These behaviors must meet the definition of sexual harassment contained in Section VIII.A of the policy in order to constitute prohibited sexual harassment.

First Amendment must be carefully considered in all complaints involving speech or expressive conduct. The fact that speech or a particular expression is offensive is not, standing alone, a legally sufficient basis to establish a violation of this policy. In order to violate this Policy, speech or expressive conduct must constitute sexual harassment, as defined in Section VIII.A above. Speech or expressive conduct that constitutes sexual harassment is neither legally protected expression nor the proper exercise of academic freedom.

D. Sexual Violence

Sexual violence is defined as a physical sexual act perpetrated without consent. A number of different acts can fall within the definition of sexual violence, including rape and sexual assault.

- “Sexual Assault” is defined as having or attempting to have sexual intercourse or sexual contact with another individual by force or threat of force; without consent; or where that person is incapacitated.¹¹
- “Rape” is defined as sexual penetration, however slight, of another person without that person’s consent. Penetration can be of the mouth, vagina, or anus, and can be with a penis, tongue, finger, or foreign object.
- “Sexual intercourse” includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.
- “Sexual contact” includes intentional contact with the intimate parts of another, causing another to touch one’s intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.

E. Sexual Exploitation

Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include:

- Surreptitiously observing another individual’s nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved, or in which the person observed or induced to perform such act has not attained 18 years of age;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of

¹¹ Sexual assault is a crime under Michigan law. Specific information about the criminal offense can be found in the Michigan penal code at MCLA § 750.520 and in Appendix C.

all parties involved, or in which the person recorded or viewed or induced to perform such act has not attained 18 years of age;

- Exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances, or in which the person induced to perform such act has not attained 18 years of age;
- Knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge;
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity;
- Arranging for others to have non-consensual sexual contact with a victim; and
- The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act where such an act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

F. Consent

Consent means the voluntary, willful, and unambiguous agreement to engage in a specific sexual activity during a sexual encounter. Consent cannot be given by someone who is:

- Sleeping;
- Unconscious, unaware, or otherwise mentally or physically helpless because of drugs, alcohol, or other contributing factor ("incapacitated");
- Unable to understand the nature of the sexual activity due to a mental disease or condition ("mentally incapable"); or
- Under duress, threat, deception, coercion, misuse of professional authority/status, or force.

Consent must be clear and communicated by mutually understandable words or actions. Silence, passivity, the absence of resistance, or the absence of a verbal "no" or "stop" does not imply consent, and relying solely on non-verbal communications may result in a violation of this policy. **It is important not to make assumptions.** If confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and verbally clarifies the other's willingness to continue. Prior consent does not imply current consent or future consent; even in the context of a prior or current relationship, consent must be sought and freely given for each instance of sexual contact.

Consent to any one form of sexual activity does not automatically imply consent to other forms of sexual activity. Consent can be withdrawn at any time during a sexual encounter. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

G. Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to consent to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the “who, what, where, when, why or how” of the sexual interaction) and/or is physically helpless. An individual is also considered incapacitated, and therefore unable to give consent, when asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or other drugs. Consumption of alcohol or other drugs, inebriation or intoxication are insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's:

- Decision making ability;
- Awareness of consequences;
- Ability to make informed judgments; or
- Capacity to appreciate the nature and circumstances of the act.

Evaluating incapacitation also requires an assessment of whether a respondent knew or should have known that the claimant was incapacitated when viewed from the position of a sober, reasonable person.

In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. **If there is any doubt as to the level or extent of the other person's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.**

Signs of incapacitation may include:

- Slurred speech
- Bloodshot eyes
- Smell of alcohol on breath
- Clumsiness
- Inability to focus
- Confusion

- Shaky balance
- Stumbling or falling down
- Vomiting
- Poor judgment
- Difficulty concentrating
- Combativeness or emotional volatility
- Outrageous or unusual behavior
- Unconsciousness

Being intoxicated or impaired by drugs or alcohol is never an excuse for misconduct and does not diminish one's responsibility to obtain consent.

IX. Victim Assistance

The University and surrounding communities have a wide range of resources to provide medical, emotional, legal, victim advocacy, and other support to victims of relationship violence or sexual misconduct. A comprehensive list of campus and community resources and contact information related to sexual assault and other sexual and relationship violence is available online at www.sexualassault.msu.edu, www.endrape.msu.edu, and www.oie.msu.edu. Comprehensive information about relationship violence and stalking can be found at <http://safeplace.msu.edu>. Services offered through the MSU Sexual Assault Program and MSU Safe Place are free and confidential.

The University also provides interim measures it deems necessary during an investigation. Interim measures are those services, accommodations, and other assistance the University puts in place after receiving notice of alleged relationship violence or sexual misconduct but before any final outcomes (investigatory, disciplinary, or remedial) have been determined. Additional information about interim measures, including contact information to request interim measures, is included below in Section XI.L.7.

X. Privacy and Confidentiality

Privacy and confidentiality have distinct meanings under this policy.

A. Privacy

Privacy generally means that information related to a report of prohibited conduct will be shared with a limited circle of individuals who "need to know" in order to assist in the active review, investigation, resolution of the report, and related issues. All University employees who are involved in the University's Title IX response receive specific training and guidance about safeguarding private information in accordance with applicable laws.

The privacy of student education records will be protected in accordance with the University's policy for compliance with the Family Educational Rights and Privacy Act (FERPA) and state law protections. The privacy of an individual's medical and related records generally are protected in the United States by the Health Insurance Portability and Accountability Act

(HIPAA), excepting health records protected by FERPA. Access to personnel records is restricted in accordance with University policy and state law.

B. Confidentiality

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other person without express permission of the individual, or as otherwise permitted or required by law. Those campus and community professionals who have the ability to maintain confidential relationships include health care providers, mental health professionals, the sexual assault victim advocate, and ordained clergy, all of whom normally have privileged confidentiality that is recognized by Michigan state law. These individuals are prohibited from breaking confidentiality unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18; or (iv) as otherwise required or permitted by law or court order.

XI. Violations: Complaint Procedures

The University has an obligation to promptly take steps to investigate or otherwise determine what occurred and then to address instances of relationship violence and sexual misconduct when it knows or should have known about such instances, regardless of claimant cooperation and involvement. Therefore, the University encourages persons who believe that they have experienced relationship violence or sexual misconduct to contact the University. Individuals are also encouraged to contact the MSU Sexual Assault Program or MSU Safe Place for confidential support.

A. Reporting Relationship Violence or Sexual Misconduct

All individuals are encouraged to promptly report conduct that may violate this policy to the University. In addition, all individuals are encouraged to report conduct that may also violate criminal law to both the University and to local law enforcement. These processes are not mutually exclusive.

Any University student, employee or third party who seeks to make a complaint or report may:

- Make a report to the Office of Institutional Equity (OIE)¹²;
- Contact the MSU Police for assistance in filing a criminal complaint and preserving physical evidence¹³; and/or
- Contact local law enforcement to file a criminal complaint.

¹² Policy references to OIE include the Deputy Title IX Coordinator for Investigations and all OIE investigators.

¹³ The MSU Police and OIE processes are outlined in Appendix B.

Claimants may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue an internal complaint and a criminal complaint). When talking to one of these offices, Claimants do not need to know whether they wish to request any particular course of action. Claimants do not need to know how to label what happened. Choosing to make a complaint, and deciding how to proceed after making the complaint, can be a process that unfolds over time. Before or during this decision-making process, claimants are encouraged to seek support and information from a Confidential Resource.

The University understands that a person may be ambivalent about reporting relationship violence or sexual misconduct. In these cases, they may find a conversation with the MSU Sexual Assault Program, MSU Safe Place, or the University Ombudsperson helpful. These offices can provide a confidential space where University community members may explore their options and the possible consequences of their choices. Whether they opt to report or not, members of the University community are encouraged to seek support from confidential counselors if they are dealing with these issues. See Section XI.C below.

The University also encourages individuals who have been sexually assaulted to undergo a health assessment offered by the Sexual Assault Nurse Examiner at Sparrow Hospital or a comparable program as soon as possible. A sexual assault nurse examiner is a registered nurse specially trained to provide care to sexual assault patients. The SANE conducts medical forensic examinations and can serve as an expert witness in a court of law. If you decide to have a SANE exam you can choose whether or not to make a police report.

The Sparrow Sexual Assault Nurse Examiner Unit (SANE) will not bill your parents' insurance without your written permission. If you do not give permission to bill an insurance company, the exam is billed to the State Of Michigan SAFE Program and is free of charge. SANE is also a confidential program. The MSU Sexual Assault Program has advocates available to support you and provide resources to you at Sparrow SANE. If you go to Sparrow for a SANE exam the advocacy team will be paged and an advocate will meet you at the hospital.

The Office of Institutional Equity (OIE) informs the MSU Police of all reports it receives regarding sexual assaults, relationship violence, and stalking. This does not obligate the claimant to talk to the police and the choice about whether to participate in a law enforcement investigation remains with the claimant. In contrast, the MSU Police Department does not share personally identifiable information about a victim of relationship violence or sexual misconduct with OIE without the victim's permission.

The University can most effectively investigate and respond to alleged relationship violence or sexual misconduct if the complaint is made as promptly as possible after the alleged violence or misconduct occurs. The University does not, however, limit the time frame for reporting. If the respondent is not a member of the MSU community at the time of the report, the University will still seek to meet its legal obligations by providing reasonably available support for a claimant, but its ability to investigate and/or take action may be limited. The University will, however, assist a claimant in identifying external reporting options.

B. Contact Information: Filing Reports

Office of Institutional Equity:
4 Olds Hall
East Lansing, MI 48824
(517) 353-3922
oie@msu.edu

MSU Police Department:
1120 Red Cedar Road
East Lansing, MI 48824
(517) 355-2221
Emergencies: 911

C. Contact Information: Confidential and Private Resources

MSU Counseling Center
207 Student Services Building
556 East Circle Drive
East Lansing, MI 48824
(517) 355-8270
Emergencies: 911

MSU Sexual Assault Program
14 Student Services Building
556 East Circle Drive
East Lansing, MI 48824
(517) 355-3551 (office)
(517) 372-6666 (24 hour crisis line)
www.endrape.msu.edu

MSU Safe Place
(517) 355-1100
noabuse@msu.edu
<http://safeplace.msu.edu>

University Ombudsperson
354 Farm Lane, Room 129 (North Kedzie Hall)
East Lansing, MI 48824
(517) 353-8830
Email: ombud@msu.edu
Web: <https://www.msu.edu/unit/ombud/index.html>

D. Explanation of Rights and Options

Upon receipt of a report of relationship violence or sexual misconduct, the Office of Institutional Equity will provide a written explanation to the claimant and respondent summarizing their respective rights and options. This written explanation will include information about reporting procedures, investigation procedures, law enforcement, legal options, confidentiality protections, campus resources, interim measures, and campus disciplinary procedures.

E. Employee Reporting Obligations, Confidentiality, and Safety Concerns

The University strongly encourages individuals affected by relationship violence or sexual misconduct to talk to someone about what happened and obtain support services. The University also needs to respond appropriately to reports of relationship violence or sexual misconduct in order to provide a safe and effective learning environment.

Most University employees are obligated to bring reports of relationship violence and sexual misconduct to the attention of the Office of Institutional Equity and the MSU Police, but some can maintain confidentiality of such reports if the victim so requests.¹⁴ See Sections E.1-3 below. Students and employees should be aware of the reporting options available to them so that they can make informed choices about the consequences of disclosing details of an incident of relationship violence or sexual misconduct.¹⁵

Individuals who choose to discuss an incident of relationship violence or sexual misconduct only in a privileged/confidential or private setting should understand that the University will not be able to conduct an investigation into the particular incident, or pursue disciplinary action against the alleged perpetrator, unless the incident is reported to the Office of Institutional Equity directly by the victim, law enforcement, or someone who does not have the ability to keep it confidential. Counselors and advocates who are able to maintain confidentiality of reports will still assist their clients in receiving support services. At the individual's option, this will include coordinating with the Office of Institutional Equity to provide any necessary interim measures.

A victim who requests confidentiality may later decide to file a complaint to the Office of Institutional Equity or law enforcement and have the incident fully investigated. Safety risks associated with the Office of Institutional Equity or MSU Police contacting or interviewing the accused will be taken into consideration before that occurs, especially in cases where the victim is fearful and does not want the perpetrator contacted, or when the threats and abuse may escalate and put the victim in increased danger due to the investigation process.

¹⁴ Students who are not also employees do not have reporting obligations under this Policy. Nevertheless, students who have witnessed relationship violence or sexual misconduct are encouraged to promptly report such information to the Office of Institutional Equity.

¹⁵ The disclosure options described in this Policy involve disclosures made by adults and conduct involving adults. Disclosures involving minors are governed by the reporting obligations outlined in the *Reporting Protocols: Child Abuse, Sexual Assault, and Child Pornography*. Disclosures involving imminent harm to self or others may also override confidentiality and require reporting to appropriate authorities.

1. Confidential Communications

Professional, licensed counselors who provide mental-health counseling to members of the community are legally not permitted (with few exceptions) to report any information to the Office of Institutional Equity without their client's permission. Licensed counselors are available in the following offices:

- MSU Counseling Center
- MSU Sexual Assault Program
- MSU Safe Place
- MSU Psychological Clinic
- MSU Couple and Family Therapy Clinic
- MSU Olin Psychiatry
- MSU Employee Assistance Program

Disclosure to one of the offices listed above does not constitute a report or notice to the University.

2. Private Communications

Individuals who work or volunteer in the following campus offices, including peer educators, can talk to a student or employee about an incident of relationship violence or sexual misconduct without triggering the need to report personally identifiable information about the incident to the Office of Institutional Equity.

- MSU Sexual Assault Program & 24-hour Sexual Assault Crisis Line
- MSU Counseling Center
- MSU Safe Place
- MSU Sexual Assault & Relationship Violence (SARV) Prevention Program
- MSU Sexual Assault Crisis Intervention (SACI) Team
- Every 5 Minutes (E5M) Team
- University Ombudsperson
- Olin Health Center
- MSU Employee Assistance Program

Disclosure to one of the offices listed above does not constitute a report or notice to the University. The privacy protections provided to these offices are based in policy and not law. Therefore, individuals should recognize that while the university considers conversations with these offices to be private, some records may be disclosed pursuant to a search warrant or subpoena and may not be legally confidential.

These offices will periodically report non-personally identifiable information about relationship violence and sexual misconduct reports that the offices have received to the Title IX Coordinator to keep the Title IX Coordinator informed of the general extent and nature of relationship violence and sexual misconduct on and off campus. This will help the Title IX Coordinator track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

Individuals in these offices will not share personally identifiable information with the Title IX Coordinator without the student or employee's consent.

3. Reports to Mandatory Reporters

All University employees, other than those appointed in the offices listed above, are expected to promptly report sexual misconduct or relationship violence that they observe or learn about and that involves a member of the University community (faculty, staff, or student) or occurred at a University event or on University property.

FACULTY, ACADEMIC STAFF, SUPPORT STAFF, GRADUATE TEACHING ASSISTANT REPORTING CHART:

CATEGORY OF REPORT: STATUS OF PERSON VICTIMIZED	TYPE OF VIOLENCE OR MISCONDUCT	WHERE TO FILE REPORT
Student ¹⁶	Sexual Violence	Office of Institutional Equity (OIE) and MSU Police
Student	Sexual Harassment	OIE
Student	Relationship Violence	OIE and MSU Police
Employee	Sexual Violence	OIE and MSU Police
Employee	Sexual Harassment	Supervisors must report to OIE All other employees strongly encouraged to report to supervisor or OIE
Employee	Relationship Violence	OIE and MSU Police
Third Party	Sexual Violence	OIE and MSU Police
Third Party	Sexual Harassment	OIE
Third Party	Relationship Violence	OIE and MSU Police

NOTE: Undergraduate student employees should make reports to their supervisor, who will contact OIE and the MSU Police. REHS live-in staff must follow the REHS mandatory reporting protocols.

Employees are only required to report relationship violence or sexual misconduct of which they become aware in their capacity as a University employee, not in their personal capacity.

Once a report is made to the OIE, the University will take immediate steps to initiate the investigatory process to determine what happened and to resolve the matter promptly and

¹⁶ Reports involving student employees are considered student reports.

equitably. Questions about whether a disclosure must be reported can be referred to the Office of the General Counsel, OIE, MSU Police, or University Ombudsperson.

The employee must report all relevant details about the alleged relationship violence or sexual misconduct that occurred on campus or at a campus-sponsored event, including the name of the victim, the accused, any witnesses, and any other relevant facts, including the date, time, and specific location of the incident.

4. Requests for Confidentiality or Anonymity

Victims of relationship violence or sexual misconduct may request confidentiality or anonymity, including that their name not be shared with the respondent, that the respondent not be notified of the report, or that no investigation occur. If the victim wants to tell the mandatory reporter what happened, but also wants to maintain confidentiality or anonymity, the employee should tell the victim that the University will consider the request but cannot guarantee confidentiality or anonymity. The employee should advise the victim that the details of the incident will be disclosed only to those officials with a legitimate institutional interest in knowing the information. In reporting the details of the incident to the OIE, the employee will inform the OIE of the victim's request for confidentiality or anonymity.

The Deputy Title IX Coordinator for Investigations will weigh the victim's request for confidentiality or anonymity against the University's obligation to provide a safe, non-discriminatory environment for all students and employees, including the victim. The Deputy Title IX Coordinator for Investigations will consider a range of factors in weighing the request, including:

- The increased risk that the alleged perpetrator will commit additional acts of relationship violence or sexual misconduct, such as:
 - Whether there have been other relationship violence or sexual misconduct complaints about the same alleged perpetrator;
 - Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - Whether the alleged perpetrator threatened further relationship violence or sexual misconduct against the victim or others;
 - Whether the relationship violence or sexual misconduct was committed by multiple perpetrators; and/or
 - Whether there have been threats to kill or harm the victim.
- Whether the relationship violence or sexual misconduct was perpetrated with a weapon
- Whether the victim is a minor

- Whether the University possesses other means to obtain relevant evidence of the relationship violence or sexual misconduct (e.g., security cameras or personnel, physical evidence)
- Whether the victim's report reveals a pattern of relationship violence or sexual misconduct at a specific location or by a particular group

If the University honors the request for confidentiality, the Deputy Title IX Coordinator for Investigations will explain to the victim that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator may be limited. The Deputy Title IX Coordinator for Investigations will also explain that the University prohibits retaliation for filing a complaint and will take steps to prevent retaliation and take strong responsive action if any retaliation occurs. If the claimant continues to ask that his or her name not be revealed, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not prevent the University from responding effectively to harassment and preventing harassment of others.

Regardless of whether the request for confidentiality is honored, the University will take steps to limit the effects of the alleged relationship violence or sexual misconduct and prevent its recurrence when possible. Such steps might include providing increased security or supervision at locations or activities where a pattern of relationship violence or sexual misconduct exists; providing education and training materials for students, student groups, or employees; reviewing applicable relationship violence and sexual misconduct or disciplinary policies; and conducting climate surveys regarding relationship violence and sexual misconduct.

At times, in order to provide a safe, non-discriminatory environment for members of the campus community, the University may not be able to honor a victim's request for confidentiality. In such circumstances, the Deputy Title IX Coordinator for Investigations will inform the victim prior to starting an investigation and will share information only with people involved in the University's investigation.¹⁷ The victim is not required to participate in the investigation. Should the victim choose not to participate in an investigation, the Deputy Title IX Coordinator for Investigations will explain that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator may be limited.

F. Reports from Witnesses & Bystander Intervention

Students or third parties who witness acts of relationship violence or sexual misconduct perpetrated by a member of the University community (faculty, staff, or student) or occurring at a University event or on University property are strongly encouraged to report the misconduct to the OIE and the MSU Police.

Employees (including student employees) and University volunteers who witness acts of relationship violence or sexual misconduct perpetrated by a member of the University

¹⁷ The victim may decide whether other individuals, such as parents, instructors, or colleagues, will be informed of the investigation unless special circumstances (such as the sexual assault of a minor) exist.

community (faculty, staff, or student) or occurring at a University event or on University property must follow the employee reporting chart contained in Section XI.E.3 above.

The University encourages all witnesses of relationship violence or sexual misconduct to engage in bystander intervention when safe to do so. As explained on the www.notalone.gov website, “the bystander role includes interrupting situations that could lead to assault before it happens or during an incident; speaking out against social norms that support sexual assault, domestic violence, dating violence, and stalking; and having skills to be an effective and supportive ally to survivors.”¹⁸

G. Public Awareness Events

Public awareness or activism events and other public forums at which students or employees disclose experiences with relationship violence or sexual misconduct are not considered notice to the University for the purposes of this Policy unless the victim also initiates a complaint under this Policy (e.g., Take Back the Night, E5M performances, protests).

H. Third Party and Anonymous Complaints

The Office of Institutional Equity processes all complaints of relationship violence and sexual misconduct it receives, regardless of who files the complaint. Third party and anonymous complaints will not be rejected. However, without the participation or identity of the victim or third party, the University may have insufficient information to conduct a formal investigation.

Individuals who wish to file an anonymous complaint may do so through the normal channels identified in this policy or through the University’s Misconduct Hotline. Information about the Misconduct Hotline and reporting options are available online at <http://misconduct.msu.edu/>.

I. Amnesty for Drug or Alcohol Possession and Consumption Violations

The University encourages students to report all incidents of relationship violence or sexual misconduct. Therefore, students who report relationship violence or sexual misconduct will not be disciplined by the University for a violation of the University’s drug and alcohol possession or consumption policies that may have occurred in connection with the reported incident. Students are also protected by a Michigan law that provides amnesty for alcohol-related crimes if an underage individual, after consuming alcohol, presents (or accompanies an underage person presenting) at a health facility or agency for treatment or observation as a result of sexual assault.¹⁹

J. Relationship Violence or Sexual Misconduct by Third Parties

¹⁸ See Bystander Intervention at <https://www.notalone.gov/students/>.

¹⁹ MCLA § 436.1703(10)

The University prohibits relationship violence and sexual misconduct by third parties towards members of the University community when the third party has been brought into contact with the member of the University community through a University program or activity.²⁰ Although individuals who are not students or employees of the University are not subject to discipline under the University's internal processes, the University will take prompt, corrective action to eliminate relationship violence and sexual misconduct and prevent its recurrence in those circumstances.

If a University student believes that she or he has experienced relationship violence or sexual misconduct in a University program or activity by an individual who is not a University employee or student, the student should report the conduct to the OIE or the unit administrator (e.g., supervisor, department chair, or dean) responsible for that program or activity. The unit administrator will report the alleged relationship violence or sexual misconduct to the OIE and to the MSU Police.

If a University employee (including a student employee) believes that he or she has been subjected to relationship violence or sexual misconduct within the scope of his or her employment activities by an individual who is not a University employee or student, the University employee should report the conduct to his or her supervisor or to the OIE. The supervisor must report the alleged relationship violence or sexual misconduct to the OIE and to the MSU Police.

Individuals experiencing third party relationship violence or sexual misconduct are encouraged to contact the MSU Sexual Assault Program or MSU Safe Place. Both programs offer a variety of services, including counseling, safety planning, and information about legal options and protections through the criminal and civil courts.

K. Outside Options for Resolution of Complaints

Students who believe they are a victim of sex-based discrimination in an educational program at MSU may file a complaint under Title IX with the regional enforcement office of the Office for Civil Rights, U.S. Department of Education at the following address:

Office for Civil Rights
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812
Telephone: (216) 522-4970
FAX: (216) 522-2573; TDD: (800) 877-8339
Email: OCR.Cleveland@ed.gov

Faculty and staff may file complaints under Title IX with the Office for Civil Rights, U.S. Department of Education in certain circumstances; under Title VII with the Equal Employment

²⁰ As outlined in Section II of the policy, the policy also prohibits sexual misconduct and relationship violence against third parties by members of the University community.

Opportunity Commission; or under the Elliott-Larsen Civil Rights Act with the Michigan Department of Civil Rights.

Equal Employment Opportunity Commission
Detroit Field Office
Patrick V. McNamara Building
477 Michigan Avenue
Room 865
Detroit, MI 48226
Phone: (800) 669-4000
Fax: (313) 226-4610
TTY: (800) 669-6820

Michigan Department of Civil Rights
3054 West Grand Boulevard, Suite 3-600
Detroit, MI 48202
Phone: (313) 456-3700
Fax: (313) 456-3701
Toll-Free: (800) 482-3604
TTY: (877) 878-8464
Email: MDCRServiceCenter@michigan.gov

L. Processing Complaints and Reports

All reports of alleged relationship violence or sexual misconduct are reviewed by the Office of Institutional Equity (OIE) under the direction of the Deputy Title IX Coordinator for Investigations.²¹ The University will process all complaints and reports of relationship violence or sexual misconduct it receives, regardless of where the conduct which is the basis for the complaint allegedly occurred.²² The Deputy Title IX Coordinator for Investigations may also determine that an investigation is warranted without a complaint if the University has sufficient notice that relationship violence or sexual misconduct may have occurred.

Even if the OIE determines that a formal investigation is not warranted, the University will take prompt, responsive action to support a claimant and will take steps to eliminate, prevent, or address a hostile environment if it determines that one exists.

²¹ Complaints filed against students or employees in graduate or professional programs will be investigated by OIE, not the individual colleges. Complaints filed against students or employees of the MSU College of Law will be referred to the Title IX Coordinator of the MSU College of Law for investigation.

²² The University generally does not investigate allegations of harassment or discrimination that fall outside the jurisdictional limits of the Anti-Discrimination Policy and General Student Regulations. Nevertheless, the University will process all complaints of relationship violence and sexual misconduct in accordance with this Policy, regardless of where the conduct that is the basis for the complaint allegedly occurred, in order to evaluate whether there is a hostile environment on campus that would be contrary to the University's legal obligations.

The OIE maintains detailed records of each informal and formal complaint, including individuals involved, investigative steps taken, documentation received, individuals interviewed, decisions reached, and reason(s) for decisions reached. Complaints and information gathered during the investigation process will be kept confidential to the extent permitted by law.

1. Investigation Overview

The University has an obligation to conduct a prompt, adequate, reliable, and impartial investigation to determine what occurred and then to take appropriate steps to resolve the situation when it learns of an incident of sexual misconduct or relationship violence, regardless of whether the alleged victim is the individual who reports the relationship violence or sexual misconduct. The University also has an obligation to assess whether it will investigate the matter regardless of whether the alleged victim chooses to cooperate or proceed with a formal complaint. In fulfilling these obligations, the University will respond to complaints, reports, or information about incidents of sexual misconduct and relationship violence to stop the prohibited conduct, eliminate any hostile environment, take steps to prevent the recurrence of the prohibited conduct, and address any effects on campus or at University programs and activities off-campus.

a) Investigating Details

Trained professionals conduct investigations under the oversight of the Deputy Title IX Coordinator for Investigations. Investigations begin with a determination of whether the University has jurisdiction over the matter. If jurisdiction is established, both the claimant and respondent will be notified of the initiation of the investigation; the potential policy violation(s) at issue; the right to participate in the investigation; the timeframe for responding; and that the investigation may proceed without the participation of either party. Investigations include interviews of the claimant, respondent, and any witnesses. As more fully explained below, both the claimant and respondent may have an advisor of their choice present at any meeting during the investigation process.

b) Gathering & Reviewing Evidence

Both the claimant and respondent will have an opportunity to identify witnesses and provide any evidence of other information relevant to the investigation. A review of evidence, such as electronic and written material, will be conducted if any such evidence exists. The investigator will determine the relevance of any proffered information. In general, the investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait, including honesty or chastity. The responsibility is on the University, not the parties to the complaint, to gather the relevant evidence, to the extent reasonably possible, relating to a complaint, report, or other incident of relationship violence or sexual misconduct of which the University has notice. There is no requirement that a claimant or respondent share privileged or confidential medical and counseling records with investigators. However, where a party chooses to share medical or counseling records as part of the investigation, the records will be included in the investigation file and may be available to the other party pursuant to a subpoena or other legal requirement.

c) Investigation Meetings

During the investigation process, both parties will be provided timely notice of any meeting at which their presence is requested or required.²³ The claimant has the right not to appear in the same room or otherwise confront the respondent during the investigation and adjudication process, including any student conduct hearings or appeals. The parties are not permitted to personally cross-examine each other during the investigation or adjudication process, including during any student conduct hearings or appeals.

d) Investigation Outcomes

Both parties will be provided regular updates regarding the status of the investigation process. At the conclusion of the fact-finding portion of the investigation, both parties will be provided with an opportunity to review the preliminary investigation report and provide commentary about the information gathered, as well as ask any questions, before a final report is issued. The University utilizes a preponderance of the evidence standard during the investigation process, as well as in all related proceedings, including disciplinary hearings. A respondent is presumed not to have violated this policy unless a preponderance of the evidence establishes a policy violation. A respondent's decision not to provide a statement or be interviewed when there are potential criminal charges pending will not be given an adverse inference by the investigator.

Both the claimant and the respondent will be notified in writing of the outcome of an investigation, the rationale for the outcome, and the process to challenge the investigation findings.

If an investigation results in a determination that relationship violence or sexual misconduct has occurred, the University will take prompt and effective steps to end the sexual misconduct, eliminate the hostile environment, prevent its recurrence, support victims of relationship violence, and remedy the discriminatory effects on the victim and others. For students, this means that the matter will be referred to the student conduct process to determine the appropriate sanction. For employees, this means that the matter will be referred to Human Resources/Academic Human Resources to determine the appropriate personnel action. The Title IX Coordinator, in cooperation with the relevant University officials, will also confirm that appropriate non-disciplinary remedies have been provided to the claimant. The Title IX Coordinator will also provide broad-based or targeted remedies for the community, such as additional training, climate assessments, revisions to policy or practices or any other action tailored to the facts and circumstances which may eliminate, prevent, or address the effects of a hostile environment. The Title IX Coordinator will monitor the matter to increase the likelihood that that the relationship violence or sexual misconduct does not recur.

If an investigation results in a determination that sexual harassment occurred but insufficient evidence that a particular student or employee violated University policy, the University will still take other necessary steps to stop the harassment, prevent its recurrence, eliminate any hostile environment, and remedy the discriminatory harassment on the claimant and others as appropriate.

²³ Notices provided to students and employees under this Policy will be sent to the individual's official msu.edu email account.

A detailed summary of the OIE complaint procedures are available online at www.oie.msu.edu.

2. Sexual History of the Parties

The claimant or respondent's character or reputation with respect to other sexual activity is never relevant and will not be considered as evidence. However, prior sexual history may be considered under the following limited circumstances:

- Where there was a prior or ongoing relationship between the claimant and respondent, and the respondent asserts that consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of the policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.
- To establish a pattern or practice of conduct similar in nature by the respondent.

In addition, other conduct by either party may, under limited circumstances, be relevant to establish intent, motive, absence of mistake, to explain an injury or physical finding, or another ground deemed probative by the investigator.

Where the investigator intends to consider evidence of prior sexual history as part of the investigation, such evidence will be included in the draft report and the parties will have an opportunity to challenge its relevance and whether it should be considered in the investigator's analysis. Relevant evidence of prior sexual history must be based on direct information, not rumor, hearsay, speculation or conjecture.

3. Law Enforcement Investigations

Claimants may pursue a complaint with the University and police simultaneously. The MSU Police Department and Office of Institutional Equity (OIE) independently investigate complaints of relationship violence and sexual misconduct. The Police investigate to determine whether there has been a violation of criminal laws. The Office of Institutional Equity investigates to determine whether there has been a violation of University policy. The investigations proceed concurrently, and the outcome of one investigation does not determine the outcome of the other investigation.

Occasionally, the OIE may need to briefly suspend the fact-finding aspect of its investigation at the request of law enforcement while the police are in the process of gathering evidence. The OIE will maintain regular contact with law enforcement to determine when it may begin its investigation. Even if the OIE investigation is briefly suspended, the University will nevertheless communicate with the claimant regarding his/her rights, procedural options, and the implementation of appropriate interim measures to assist and protect the safety of the claimant and the campus community and to prevent retaliation. The OIE will promptly resume its investigation as soon as notified by the police department that it has completed its evidence

gathering process, or sooner if the University determines that the evidence gathering process will be lengthy or delayed. Federal law does not permit the University to delay its investigation until the ultimate outcome of the criminal investigation.

The MSU Police provide all victims of relationship violence and sexual misconduct with information about the OIE investigation process, as well as information about available campus and community resources. The MSU Police Department does not share personally identifiable information about a victim of relationship violence or sexual misconduct without the victim's permission.

The MSU Police Department shares information about ongoing investigations with the OIE to the extent that sharing such information will not interfere with law enforcement proceedings.

4. Preservation of Evidence

Individuals involved in an allegation of relationship violence or sexual misconduct should preserve evidence to the extent possible that may assist investigators in determining whether the alleged violence or misconduct occurred or might be relevant to the issuance of a Personal Protection Order. Specific suggestions for preservation of evidence in cases of sexual assault can be found online at <http://www.endrape.msu.edu/> or (517) 355-3551. In cases involving relationship violence, victims may contact MSU Safe Place at (517) 355-1100 or noabuse@msu.edu to speak with an advocate. The University encourages individuals to go to the police or other resource in order to assist in the preservation of evidence.

5. Investigation Timelines

The University will use its best efforts to complete its investigations of relationship violence or sexual misconduct within 60 calendar days, although this timeframe may be extended for good cause. The University will make its best efforts to complete the major steps of the investigation process within the following timeframes, although these timeframes may be modified or extended for good cause:

INVESTIGATION STEP	TIMEFRAME
Contact claimant	Within 2 business days after receipt of report
Contact respondent	Within 5 business days after meeting with claimant ²⁴
Provide draft report to parties	Within 30 days after completing all interviews
Issue final report	Within 10 business days after receiving feedback from parties or completion of any additional investigation

²⁴ If law enforcement requests that the University delay contacting a respondent until after the law enforcement agency makes first contact with the individual, this timeframe may be extended.

Good cause may exist for a variety of factors, including the complexity of the circumstances of each allegation, the integrity and completeness of the investigation, to comply with a request by law enforcement, to accommodate the availability of witnesses, to accounts for University breaks or vacations, or to address other legitimate reasons.

The University will maintain regular communication with the claimant and respondent about the progress of the investigation and its resolution. In the event a time frame is extended, both the claimant and the respondent will be notified of any delay and the anticipated length of the delay.

6. Student Conduct Process Timelines

The Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy Student Conduct Review Panel Procedures (Appendix H) set forth timelines for challenge of the OIE decision and imposition of sanctions where a violation of policy is found. Timeframes for the major steps of that process include:

- The claimant or respondent has 10 class days to file a challenge to the OIE decision.
- If no challenge to the OIE decision is filed and the decision included a finding of a policy violation, an appropriate sanction will be issued within 10 class days.
- If a challenge to the OIE decision is filed, an initial review of the challenge will be done within 15 class days. If that review concludes a challenge hearing is necessary, a hearing will be scheduled within 15 class days.
- A decision on a challenge and a sanction (if applicable) will be issued within 10 class days after the challenge review and/or hearing (if applicable).
- The Vice President for Student Affairs or designated administrator will issue a decision in writing within 10 class days after receiving a written appeal.

These timeframes may be extended during periods when classes are not held (i.e., Spring Break, final examination week, etc.) or for good cause, provided that the parties are provided with notice of the extension.

7. Interim Measures

The University may take interim measures it deems necessary during an investigation. Interim measures are those services, accommodations, and other assistance the University puts in place after receiving notice of alleged relationship violence or sexual misconduct but before any final outcomes (investigatory, disciplinary, or remedial) have been determined. Interim measures are available regardless of whether the victim chooses to report the relationship violence or sexual misconduct to law enforcement. The University will notify claimants, in writing, that interim

measures are available during the University's investigation and during the student conduct process, including appeals.

The University will implement reasonably available interim measures to protect a claimant and facilitate the claimant's continued access to University employment or education programs and activities. Interim measures may be both remedial (designed to address a claimant's safety and well-being and continued access to educational opportunities) or protective (involving action against a respondent).

Interim measures are available regardless of the manner of resolution under this policy. Interim measures will not disproportionately impact the claimant.

Interim measures will be consistent with University policies and might include academic accommodations (e.g., withdraw from or retake a class without financial or academic penalty), academic support services, counseling, medical services, voluntary leave of absence, or an opportunity to change class, housing, or work assignments. The University may also issue "no-contact orders" between the claimant and respondent or limit an individual or organization's access to certain University facilities or activities pending resolution of the matter. The University might also impose an interim disciplinary suspension, suspension from employment, or other remedies which can be tailored to the involved parties to achieve the goals of this policy.

The University will maintain the privacy of any interim measures provided under this policy to the extent practicable and will promptly address any violation of the interim measures. These interim measures may be kept in place until the end of any review or appeal process or may be extended permanently as appropriate.

The Deputy Title IX Coordinator for Investigations will take steps to assure that the appropriate interim measures are provided and that such interim measures, where possible and as supported by the available information, minimize the burden on the claimant. The Deputy Title IX Coordinator for Investigations will maintain oversight of support services and interim interventions. The Deputy Title IX Coordinator for Investigations has the discretion to ensure the appropriateness of any interim measure based on all available information, and is available to meet with a claimant or respondent to address any concerns about the provision of interim measures.

Contact Information for Interim Measures:

Office of Institutional Equity
4 Olds Hall
East Lansing MI 48824
(517) 353-3922
oiie@msu.edu

8. Advisors

Throughout the process, a claimant or respondent may have an advisor of their choice present at any meeting related to the investigation or student conduct. An advisor of choice may include an attorney. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. The advisor is a silent and non-participating presence who is there solely to observe and provide support during the investigative process. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. The advisor is encouraged to join the claimant or respondent's initial meeting with a University administrator for an orientation to the University's policies and procedures, privacy protections and expected participation/decorum. The advisor may not be a fact witness or otherwise have any conflicting role in the process.

9. Complaints Against a Student

Complaints of alleged relationship violence or sexual misconduct by a student are investigated by the Office of Institutional Equity (OIE) under the direction of the Deputy Title IX Coordinator for Investigations. All investigation findings are sent to the claimant, respondent, and Student Conduct and Conflict Resolution Office (SCCRO) in the Department of Student Life. The SCCRO then initiates the student conduct process to (1) provide both parties an equal opportunity to challenge the OIE decision, and (2) determine the appropriate sanction if a violation of policy is found to have occurred. The parties are provided similar and timely access to any information used in the challenge or sanctioning process.

Challenges to the OIE finding are reviewed by the Anti-Discrimination Policy/Relationship Violence Sexual Misconduct Policy Student Conduct Review Panel ("ADP/RVSMP Review Panel.") Once any challenge to the OIE decision is resolved, or if no challenge is filed, the appropriate sanction is determined for those cases where a policy violation has been found. Sanctions are based on a consideration of all circumstances in a particular case, including a student's prior record of misconduct, and may include suspension or dismissal from the University.

The ADP/RVSMP Student Conduct Review Panel Procedures, including possible sanctions and appeals, are attached as Appendix H.

10. Complaints Against an Employee

Complaints of alleged relationship violence and sexual misconduct by a faculty or staff member will be investigated by the Office of Institutional Equity under the direction of the Deputy Title IX Coordinator for Investigations. All investigation findings are sent to Employee Relations or Academic Human Resources to determine the appropriate sanction if a violation of policy is found to have occurred. Sanctions are based on a consideration of all circumstances in a particular case, including an employee's prior record of misconduct, and may include suspension or termination from employment. Appeals of sanctions are governed by the applicable collective bargaining agreement for support staff, the Faculty Grievance Policy for faculty and academic staff, or the non-union support staff grievance policy. Guidelines for investigations conducted by the OIE are available at www.oie.msu.edu.

11. Sanctions and Remedies

In cases where sexual misconduct or relationship violence is found to have occurred, the University will determine the appropriate, enforceable sanction. The sanction will be reasonably calculated to stop the harassment and prevent its recurrence. The University will not negotiate with a student or employee for a lesser sanction if that sanction will not end the sexual misconduct or relationship violence, eliminate the hostile environment, and remedy the discriminatory effects on the victim and others. In addition to disciplinary sanctions for the respondent if a violation of policy is found, the University may also provide remedies to claimants and others who have experienced sexual misconduct or relationship violence, including counseling, academic accommodations, academic support, or employment accommodations. Other potential remedies may include targeted or broad-based educational programming or training.

M. Investigations Without a Complaint

When necessary to meet its commitment to provide an environment free of unlawful relationship violence or sexual misconduct, the University may investigate alleged incidents of relationship violence or sexual misconduct of which it becomes aware, even if no complaint has been filed, the individual(s) involved is unwilling to pursue a complaint or participate in an investigation, or the individual(s) involved have requested to participate anonymously. If a University employee becomes aware of specific and credible allegations of relationship violence or sexual misconduct, whether through a claimant or otherwise, the allegations should be reported promptly to the Office of Institutional Equity. See discussion in Section XI.E.4 above for additional information.

N. Informal Resolution of Complaints

Informal resolution means any type of resolution provided by the University in situations involving violations of the Policy on Relationship Violence and Sexual Misconduct which does not involve disciplinary action against a respondent. Informal resolution can include implementing protective measures and accommodations as outlined in Interim Measures section XI.L.7 of this policy. It can also include restorative justice measures, mediation, or circle conferences. Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the respondent and/or indirect action as determined by the University.

Informal resolution is typically used when a claimant requests to participate in an informal resolution, requests anonymity, does not consent to participation in an investigation, or the alleged conduct, even if it does not rise to the level of a policy violation, suggests the need for remedial, educational or preventive action. Depending on the form of informal resolution used, it may be possible for a claimant to maintain anonymity.

The decision to use informal resolution will be made when the University has sufficient information about the nature and scope of the conduct, which may occur at any time. Where the Deputy Title IX Coordinator for Investigations concludes that informal resolution may be

appropriate, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the claimant's access to the educational, extracurricular, employment and other activities at the University and to eliminate any hostile environment. Participation in informal resolution by a claimant is voluntary, and either party may request to end informal resolution at any time and begin the formal stage of the complaint process.

Restorative justice practices come in a variety of forms, including but not limited to the following: 1) Healing Circles can help victims and their supporters heal from the harm caused in a safe space where they will not face the respondent. Circles are most commonly used in cases where respondents fail to accept responsibility for wrongdoing, have not been identified, or to help victims prepare for other related process. Circles may also be used to help participants prepare for participation in other formal or informal process; 2) Restorative Justice Conferences (aka, Victim-Offender Conferences) are only utilized when both the respondent and claimant agree to participate, and more commonly when one or both parties request an RJ Conference. The respondent must also accept responsibility for underlying behavior. RJ Conferences can be used in lieu of formal conduct proceedings (where appropriate), or to help inform the outcomes of formal proceedings.

There are some instances when use of informal resolution options is inappropriate. Mediation and RJ Conferences may not be used in cases involving sexual assault or in cases involving a student complaint of sexual harassment against an employee in a position of authority over the student. The University will not compel a claimant to engage in mediation, to directly confront the respondent, or to participate in any form of informal resolution. Such participation shall be completely voluntary for the claimant.

The Deputy Title IX Coordinator for Investigations will maintain records of all reports and conduct referred for informal resolution, which will typically be completed within sixty (60) business days of the initial report.

O. Privacy of Investigations

The investigation of relationship violence and sexual misconduct complaints will be conducted in a private manner, except insofar as information needs to be disclosed so that the University may effectively investigate the matter or take corrective action. While discretion is important, the parties are not restricted from discussing and sharing information relating to their investigations with others.

P. Conflicts of Interest

The University does not allow conflicts of interest, real or reasonably perceived, by those investigating or adjudicating allegations under this policy or its related procedures. A conflict of interest exists when an individual's knowledge of the matter or personal or professional relationships with the claimant, respondent, or witnesses would preclude the individual from being able to investigate or adjudicate the case fairly and impartially. Individuals who wish to challenge an investigator because of a conflict of interest may do so by filing a challenge with

the Deputy Title IX Coordinator for Investigations. If the challenge is to the Deputy Title IX Coordinator, the challenge may be filed with the Title IX Coordinator. The procedure to challenge members of student conduct review panels is outlined in Appendix H.

Q. Retaliation

Persons who report relationship violence or sexual misconduct, or who participate in the University's investigation and handling of such reports, shall not be subject to retaliation (including retaliatory harassment) for reporting or participating, even if the University finds that no relationship violence or sexual misconduct occurred. The University will take strong responsive action if retaliation occurs.

Retaliation is defined as an adverse action or adverse treatment against an individual involved in an investigation by an individual who knew of the individual's participation in the investigation.

If a claimant or witness believes that she or he is being subjected to retaliation (including retaliatory harassment), she or he should promptly contact the Office of Institutional Equity.

R. Participation

Members of the University community are expected to participate in the University's investigations of alleged relationship violence or sexual misconduct. If individuals choose not to participate, the investigation will, nonetheless, proceed based on the information available.

S. Unit Administrator Responsibilities

The Office of Institutional Equity is responsible for monitoring the University's compliance with federal and state nondiscrimination laws. However, a discrimination-free environment is the responsibility of every member of the community. Unit administrators set the tone regarding acceptable conduct and climate within their units.

Unit administrators are responsible for providing assistance to the Office of Institutional Equity regarding complaints under this Policy in which the alleged harasser is an employee. Unit administrators who need assistance interpreting this Policy, obtaining education and training with respect to the Policy, or who have questions about relationship violence or sexual misconduct prevention, may contact the Assistant Vice President for Human Resources or the Associate Provost/Associate Vice President for Academic Human Resources, whichever is appropriate; the Director of the Office of Institutional Equity; and/or the Office of the General Counsel.

T. False Complaints

All parties and witnesses are expected to provide truthful information in any proceeding under this Policy. Any member of the University community who knowingly files a false complaint of relationship violence or sexual misconduct, or who knowingly provides false information to or intentionally misleads University officials who are investigating or reviewing a complaint, is subject to disciplinary action, up to and including discharge for employees and dismissal for

students. Disciplinary action under this section of the Policy is not considered prohibited retaliation.

Investigators will differentiate false reports from recanting or mental health issues in determining whether an individual has knowingly filed a false complaint or provided false information in connection with a complaint.

XII. Additional Information and Resources

A. Education

The University is committed to enforcing this Policy and thereby helping to stop relationship violence and sexual misconduct among its students, faculty, and staff. To that end, this Policy will be published on the University's website. Information regarding this Policy will be included in orientation materials for new students, faculty, and staff; made available in the Office of Institutional Equity, as well as on its website; and shared in other appropriate campus locations. In addition, the University will conduct educational sessions to: (1) inform students, faculty, and staff about identifying relationship violence and sexual misconduct, the problems they cause, and its impact on the campus community, (2) advise members of the University community about their rights and responsibilities under this Policy, and (3) train personnel in the administration of this Policy. Each unit is responsible for obtaining this training for its staff.

B. Unit Liaisons

Each college and major administrative unit must designate at least one individual as a contact person under this Policy who will be trained to answer questions and provide information about this Policy and to take and refer, as appropriate, complaints of relationship violence and sexual misconduct. This individual is responsible for attending training programs and regularly meeting with the Office of Institutional Equity to receive training updates and to discuss issues arising in his or her college or unit. A list of liaisons can be found at www.inclusion.msu.edu.

C. Other Relevant University Policies

Since relationship violence and sexual misconduct may be forms of unlawful gender discrimination, a member of the University community who violates this Policy may also violate the University's Anti-Discrimination Policy. Other University policies relevant to behavior of a sexual or violent nature by members of the University community include Conflict of Interest in Educational Responsibilities Resulting from Consensual Amorous or Sexual Relationships, Conflict of Interest in Employment, Article 2.00 of the General Student Regulations, Article 3.00 of the Graduate and Undergraduate Residence Hall Regulations, and Ordinance 22.00.

D. Other Helpful Documents

Other helpful documents that provide additional information about concepts or terminology contained in this Policy or related reporting obligations include:

- Title IX Coordinator Description:
<http://www.inclusion.msu.edu/equity/TitleIXCoordinator.html>
- ADP User's Manual:
www.oie.msu.edu
- University Reporting Protocols: Child Abuse, Sexual Assault, and Child Pornography:
<http://www.hr.msu.edu/documents/uwidepolproc/ReportingProtocols.htm>
- University Reporting Protocols, FAQ document:
<http://www.hr.msu.edu/documents/uwidepolproc/UniversityReportingProtocolFAQ.pdf>
- Child Maltreatment Resource Guide:
<http://www.hr.msu.edu/documents/uwidepolproc/ChildAbuseResourceGuide.pdf>

E. White House Task Force Website

The U.S. Government maintains a comprehensive website regarding sexual assault, including information about applicable laws, what to do as a victim of sexual assault, confidentiality, and key terms and definitions. The website can be located at www.notalone.gov.

XIII. Annual Crime Reporting & Timely Warnings

As part of its annual reporting obligations under the Clery Act, the University discloses statistics regarding domestic violence, dating violence, stalking, and sexual assaults that meet the definition of forcible and non-forcible sex offenses under federal law. The statistics include only those Clery crimes that occur on specific geography associated with the University as defined under the Clery Act. The report, the Annual Security and Fire Safety Report, is published every October and is located on the MSU Police Department website at www.police.msu.edu. The publication does not include any personally identifying information about a victim.

The MSU Police Department issues “timely warnings” to the campus community when a Clery crime (1) occurs on campus, in a non-campus building or property (as defined by law), or on public property immediately adjacent to campus and (2) poses a serious or continuing threat to students, employees, or visitors. The method of communication to the campus community will depend on the specifics of the crime reported and the immediacy of the danger to those on campus. Timely warnings do not contain any personally identifying information about the victim.

XIV. Policy History

The Sexual Harassment policy was issued by the Office of the President on September 1, 1992 and revised in May 1999, January 2011, and June 2011. The Office of the President issued this expanded Relationship Violence & Sexual Misconduct Policy on January 1, 2015. The Policy was revised on September 8, 2015.

XV. Links to Appendices

Appendix A: Frequently Asked Questions Document

Appendix B: MSU Police Department information forms

Appendix C: Michigan Criminal Statutes

Appendix D: Flow Chart: MSU Sexual Assault Program Process Overview

Appendix E: Flow Chart: MSU Safe Place Process Overview

Appendix F: Flow Chart: OIE Formal Complaint Process

Appendix G: Flow Chart: MSUPD Sexual Assault Investigation Process

Appendix H: ADP/RVSMP Student Conduct Review Panel Procedures

Appendix I: Description of MSU Disciplinary Procedures