

Michigan State University Relationship Violence and Sexual Misconduct Policy Glossary

Key terms used in Relationship Violence and Sexual Misconduct Policy are defined below and in relevant sections throughout the Policy.

An Act of Violence: An instance of physical force against another person.

Coercion: The use of an unreasonable amount of pressure to gain sexual access. Coercion goes beyond efforts to persuade, entice, or attract another person. When a person makes it clear that they have decided not to participate in or continue participating in a particular sexual act or engage in sexual contact or that they do not wish to go beyond a particular sexual act or type of sexual contact, continued pressure can be coercive.

In evaluating whether coercion was used, the University will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

Consent: The voluntary, willful, and unambiguous agreement to engage in a specific sexual activity during a sexual encounter. For more information, review section X.E. of the RVSM Policy.

Continuing Adverse Effect: Causing or threatening to cause a substantial negative impact on the safety of the University community or the functions, services, or property of the University. This would include, but is not limited to, causing an unreasonable interference with the educational or work environment of members of the University community. This includes a causing a continuing adverse effect on (1) an individual or (2) on the campus generally. The assessment of continuing adverse effect will consider effects at any time following the incident including at the time the incident is reported.

Course of conduct: Two or more acts directed at a person or persons.

Dating violence: An act of violence committed by a person who is or has been in a social relationship of a romantic, sexual, 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, sexual, 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, sexual, or intimate nature is characterized by ongoing or past physical and/or emotional intimacy between the parties.

Domestic violence: An act of violence 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 household.

Gender Discrimination and Harassment: 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. MSU's 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.

Incapacitation: 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 or mentally helpless. An individual is also considered incapacitated, and therefore unable to give consent, when asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Interim Measures: Interim measures are those services, accommodations, and other assistance the University puts in place after receiving notice of alleged relationship violence, stalking, or sexual misconduct but before any final outcomes (investigatory, disciplinary, or remedial) have been determined.

Objectively Offensive: An action or statement, which would cause a reasonable person in the Claimant's position to feel displeasure, resentment, or fear

Persistent: Repeatedly engaging in conduct.

Pervasive: Having a widespread presence in or impact on an environment.

Preponderance of the evidence: The amount of evidence that causes one to conclude that an allegation is probably true (more likely true than not true). If the evidence on a particular allegation is equally balanced, then that allegation has not been proven by a preponderance of the evidence.

Predominant aggressor: The predominant aggressor is the individual, in a relationship violence incident, whose violence is used to exert power and/or control over the other individual.

The predominant aggressor may not necessarily be the party to initiate the violence, particularly in cases where a victim has used violence in self-defense, to obtain withheld property, in an attempt to flee, or to interrupt an act of violence.

Preliminary investigation report: A draft version of the investigation report, which is provided to the claimant and respondent for their review and feedback. The preliminary investigation is provided before OIE analyzes the case or makes a finding decision.

Rape: Is a form of sexual assault that includes:

- Non-consensual penetration, no matter how slight, of the victim's genital opening, anus, or mouth with any body part or object;
- Non-consensual use of the sex organ of the victim to penetrate, no matter how slight, the genital opening, anus, or mouth, of another person.

Relationship Violence: Relationship violence is a broad term that encompasses domestic violence, dating violence, and stalking.

Reasonable Person: The term "reasonable person" is a legal term that the courts have generally defined as a prudent, hypothetical person with ordinary sensitivities who embodies a community ideal of reasonable behavior.

Retaliation: An act or attempted act taken because of a person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes a person's good faith (1) opposition to prohibited conduct, (2) report of prohibited conduct to the University; and, (3) participation (or reasonable expectation of participation) in any manner in an investigation, proceeding, hearing, or Interim Measure under this Policy. Retaliation requires an adverse action or adverse treatment against an individual by an individual because of the individual's participation in the investigation.

Retreat: To physically withdraw from a situation.

Sexual Assault: Sexually penetrating or attempting to sexually penetrate or have sexual contact with another individual by force or threat of force; without consent; or where the victim is incapacitated.

Sexual Contact: Intentional contact of a sexual nature with the body parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. This can include contact of a sexual nature with intimate body parts such as the breasts, genitals, buttocks, groin, mouth; however, sexual contact can occur with any part of the body that is touched in a sexual manner.

Sexual Exploitation: When an individual takes or attempts to take 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.

Sexual Harassment: Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome behavior of a sexual nature that is severe, persistent, or pervasive.

Sexual Misconduct: A broad term that encompasses sexual harassment, sexual violence, and sexual exploitation.

Sexual Violence: A physical sexual act perpetrated without consent. A number of different acts can fall within the definition of sexual violence, including rape, sexual assault, and sexual contact.

Severe: Of a great degree, significantly more than minimal.

Stalking: Engaging in a course of conduct that is directed at a specific person or persons that would cause a reasonable person to feel fear for themselves or for the safety of others, or to suffer substantial emotional distress.

Substantial emotional distress: Significant mental suffering or anguish that is so severe that it may, but does not necessarily, require medical treatment or professional counseling.

Third Party: A third party is an individual who is not a member of the University community (faculty, staff, or student). Examples of third parties include visitors, guests, alumni, and students from other institutions.