

# 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 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. 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. 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.

## **III. Title IX Coordinator**

The University's Title IX Coordinator<sup>1</sup> oversees the University's process to ensure compliance with Title IX, including its grievance procedure, education/prevention efforts, and training. The Title IX Coordinator manages all relationship violence and sexual misconduct complaints and identifies and addresses any patterns or systemic problems that arise during the review of such complaints.

### Contact Information:

Paulette Granberry Russell  
Office for Inclusion and Intercultural Initiatives  
101 Olds Hall  
East Lansing MI 48824  
(517) 353-3922  
[inclusion@msu.edu](mailto:inclusion@msu.edu)

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<sup>1</sup> Title IX of the Educational Amendments of 1972 prohibits gender discrimination at institutions of higher education. Sexual harassment, including sexual assault and other kinds of sexual violence, is a form of gender discrimination.

#### **IV. 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.

#### **V. 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 violence<sup>2</sup> 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<sup>3</sup>

An incident of domestic violence can consist of a single act of violence<sup>4</sup> or a pattern of violent acts that includes, but is not limited to, sexual or physical abuse.<sup>5</sup>

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<sup>2</sup> It is important to note that domestic violence often includes ongoing emotional, psychological, and fiscal abuse. While this Policy addresses the physical aspects 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.

<sup>3</sup> 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 criminal consequences for violation of state law for engaging in such conduct.

<sup>4</sup> To assess for the presence of "abuse" in order to differentiate domestic violence from a single instance of force or violence used outside of that 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).

<sup>5</sup> 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.

## **B. Dating Violence**

Dating violence is defined as an act of violence<sup>6</sup> 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,<sup>7</sup> 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.<sup>8</sup>

- 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.
- “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.

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<sup>6</sup> Dating violence often includes ongoing emotional, psychological, and fiscal abuse. While this Policy addresses the physical aspects 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.

<sup>7</sup> 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.

<sup>8</sup> 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.

## **VI. Sexual Misconduct**

“Sexual misconduct” is a broad term that encompasses sexual harassment and sexual violence. 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:<sup>9</sup>

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 unreasonable.

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.

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<sup>9</sup> Discrimination or harassment based on gender that does not involve unwanted sexual attention is prohibited gender discrimination under the University's Anti-Discrimination Policy.

## **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 list contains examples of behavior that might fall within the preceding definition of sexual harassment:<sup>10</sup>

- Sexual violence, including sexual assault, rape, and sexual coercion
- 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 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 VI.A above. Speech or expressive conduct that constitutes sexual harassment is neither legally protected expression nor the proper exercise of academic freedom.

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<sup>10</sup> These behaviors must meet the definition of sexual harassment contained in Section VI.A of the policy in order to constitute prohibited sexual harassment.

## D. Sexual Violence

Sexual violence is defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent. A number of different acts can fall within the definition of sexual violence, including rape, sexual assault, and sexual coercion.

- "Sexual Assault" is defined as actual, attempted, or threatened sexual contact with another person without that person's consent.<sup>11</sup>
- "Rape" is defined as sexual penetration 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.<sup>12</sup>
- "Sexual coercion" is defined as the act of using pressure, deception, manipulation, or alcohol or drugs to have sexual contact with someone against his or her will, without the use of physical force. Pressure can mean verbal pressure or emotional pressure.

## E. 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")
- Under duress, threat, deception, coercion, or force

Consent must be clear and communicated by mutually understandable words or actions. The following are examples of situations that do **not** imply consent:

- Silence
- The absence of a verbal "no" or "stop"
- The absence of resistance
- The existence of a prior or current relationship or sexual activity

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<sup>11</sup> 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.

<sup>12</sup> The definition of rape includes the act of penetration of a non-consenting male by a male or female assailant.

Consent to sexual activity on one occasion does not imply consent to future sexual activity. 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.

## **VII. 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 violence is available in the Sexual Assault Resource Guide, <http://inclusion.msu.edu/equity/Sexual%20Assault%20Resource%20Guide.pdf>, and online at [www.sexualassault.msu.edu](http://www.sexualassault.msu.edu) and [www.endrape.msu.edu](http://www.endrape.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.

## **VIII. Violations: Complaint Procedures**

### **A. Reporting Relationship Violence or Sexual Misconduct**

A member of the University community who believes she or he has experienced relationship violence or sexual misconduct and wishes to file a complaint should take the following action:

- If the allegation is against a faculty or staff member, the complaint should be made, orally or in writing, to the faculty or staff member's supervisor or to the University's Title IX Coordinator.<sup>13</sup>
- If the allegation is against the employee's supervisor, the complaint should be made, orally or in writing, to the supervisor's superior or to the University's Title IX Coordinator.
- If the allegation is against a student, the complaint should be made to the University's Title IX Coordinator.

The University can only take corrective action when it becomes aware of problems. Therefore, the University encourages persons who believe that they have experienced relationship violence or sexual misconduct to contact the Title IX Coordinator and the MSU Police.<sup>14</sup> Individuals are

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<sup>13</sup> Policy references to the Title IX Coordinator also include the Office for Inclusion and Intercultural Initiatives (I3) and its investigators.

<sup>14</sup> The University's Relationship Violence & Sexual Assault Reporting Process document outlines both the MSU Police and I3 processes and is included as Appendix B.

also encouraged to contact either the MSU Sexual Assault Program or MSU Safe Place for confidential support. 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 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 VIII.D below.

## **B. Contact Information**

Title IX Coordinator:  
Paulette Granberry Russell  
Office for Inclusion and Intercultural Initiatives  
101 Olds Hall  
East Lansing MI 48824  
(517) 353-3922  
[inclusion@msu.edu](mailto:inclusion@msu.edu)

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

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](http://www.endrape.msu.edu)

MSU Safe Place  
(517) 355-1100

[noabuse@msu.edu](mailto: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](mailto:ombud@msu.edu)  
Web: <https://www.msu.edu/unit/ombud/index.html>

### **C. Explanation of Rights and Options**

Upon receipt of a report of relationship violence or sexual misconduct, the Title IX Coordinator will provide a written explanation to the complainant 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.

### **D. 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 Title IX Coordinator and the MSU Police, but some can maintain confidentiality of such reports if the victim so requests.<sup>15</sup> See Sections D.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.<sup>16</sup>

Individuals who choose to discuss an incident of relationship violence or sexual misconduct only in a privileged or confidential 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 Title IX Coordinator 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

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<sup>15</sup> 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 Title IX Coordinator.

<sup>16</sup> 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.

clients in receiving support services. At the individual's option, this will include coordinating with the Title IX Coordinator to provide any necessary interim measures.

A victim who requests confidentiality may later decide to file a complaint to the Title IX Coordinator or law enforcement and have the incident fully investigated. Safety risks associated with the Title IX Coordinator 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.

### **1. Privileged Communications**

Professional, licensed counselors who provide mental-health counseling to members of the community are not required to report any information to the Title IX Coordinator 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

### **2. Confidential 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 Title IX Coordinator.

- MSU Sexual Assault Program & 24-hour Sexual Assault Crisis Line
- 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

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, have the following reporting obligation when the employee becomes aware of relationship violence or sexual misconduct allegedly perpetrated by a member of the University community (faculty, staff, or student) or occurring at a University event or on University property.

CATEGORY OF REPORT: STATUS OF PERSON VICTIMIZED	TYPE OF VIOLENCE OR MISCONDUCT	WHERE TO FILE REPORT
Student <sup>17</sup>	Sexual Violence	Title IX Coordinator and MSU Police
Student	Sexual Harassment	Title IX Coordinator
Student	Relationship Violence	Title IX Coordinator and MSU Police
Employee	Sexual Violence	Title IX Coordinator MSU Police
Employee	Sexual Harassment	Supervisors must report to Title IX Coordinator  All other employees strongly encouraged to report to supervisor or Title IX Coordinator
Employee	Relationship Violence	Title IX Coordinator and MSU Police
Third Party	Sexual Violence	Title IX Coordinator and MSU Police
Third Party	Sexual Harassment	Title IX Coordinator
Third Party	Relationship Violence	Title IX Coordinator MSU Police

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 Title IX Coordinator, the University will take immediate steps to initiate the investigatory process to determine what happened and to resolve the matter promptly and equitably. See Section J below. Questions about whether a disclosure must be reported can

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<sup>17</sup> Reports involving student employees are considered student reports.

be referred to the Office of the General Counsel, Office for Inclusion and Intercultural Initiatives, 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**

If the victim wants to tell the mandatory reporter what happened, but also wants to maintain confidentiality, the employee should tell the victim that the University will consider the request but cannot guarantee confidentiality. 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 Title IX Coordinator, the employee will inform the Coordinator of the victim's request for confidentiality.

The Title IX Coordinator will weigh the victim's request for confidentiality against the University's obligation to provide a safe, non-discriminatory environment for all students and employees, including the victim. The Title IX Coordinator will consider a range of factors in weighing the request for confidentiality, 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
  - 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 Title IX Coordinator 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 Title IX Coordinator will also explain that the University prohibits retaliation for filing a complaint and that the Title IX Coordinator will take steps to prevent retaliation and take strong responsive action if any retaliation occurs.

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 Title IX Coordinator will inform the victim prior to starting an investigation and will share information only with people involved in the University's investigation.<sup>18</sup> The victim is not required to participate in the investigation. Should the victim choose not to participate in an investigation, the Title IX Coordinator will explain that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator may be limited.

#### **E. 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 Title IX Coordinator 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 community (faculty, staff, or student) or occurring at a University event or on University property must follow the employee reporting chart contained in Section VIII.D 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](http://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

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<sup>18</sup> 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.

violence, dating violence, and stalking; and having skills to be an effective and supportive ally to survivors.<sup>19</sup>”

#### **F. 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).

#### **G. Third Party and Anonymous Complaints**

The Office of the Title IX Coordinator 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/>.

#### **H. 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.<sup>20</sup>

#### **I. Relationship Violence or Sexual Misconduct by Third Parties**

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. 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.

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<sup>19</sup> See Bystander Intervention at <https://www.notalone.gov/students/>.

<sup>20</sup> MCLA § 436.1703(10)

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 Title IX Coordinator 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 Title IX Coordinator 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 Title IX Coordinator. The supervisor must report the alleged relationship violence or sexual misconduct to the Title IX Coordinator 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.

#### **J. 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](mailto: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 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: 1-800-669-4000  
Fax: 313-226-4610

TTY: 1-800-669-6820

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](mailto:MDCRServiceCenter@michigan.gov)

## **K. Processing Complaints**

All complaints of alleged relationship violence or sexual misconduct are investigated under the oversight of the University's Title IX Coordinator. The University will process all formal complaints of relationship violence or sexual misconduct it receives, regardless of where the conduct which is the basis for the complaint allegedly occurred.<sup>21</sup> The Title IX Coordinator may also determine that an investigation is warranted without a formal complaint if the University has sufficient notice that relationship violence or sexual misconduct may have occurred.

### **1. Investigation Overview**

Trained professionals conduct investigations under the oversight of the Title IX Coordinator. Investigations begin with a determination of whether the University has jurisdiction over the matter. If jurisdiction is established, investigations include interviews of the complainant, respondent, and any witnesses. A review of evidence, such as electronic and written material, will be conducted if any such evidence exists. The University utilizes a preponderance of the evidence standard during the investigation process, as well as in all related proceedings, including disciplinary hearings. Both the complainant and the respondent will be notified in writing of the outcome of an investigation and provided with an opportunity to respond before a final report is issued.

If an investigation results in a determination that relationship violence or sexual misconduct has occurred, the University will take remedial action, including, where appropriate, disciplinary action, to eliminate the relationship violence or sexual misconduct and prevent its recurrence. 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 the unit supervisor and Human Resources/Academic Human Resources to determine the appropriate personnel action.

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<sup>21</sup> 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 Title IX Coordinator, in cooperation with the relevant University officials, will also confirm that appropriate non-disciplinary remedies have been provided to the complainant and will monitor the matter to increase the likelihood that that the relationship violence or sexual misconduct does not recur.

A detailed summary of the Title IX Coordinator's complaint procedures are available online at: <http://www.inclusion.msu.edu/equity/ComplaintInvestigation.html>.

## **2. Sharing Information with Law Enforcement**

The MSU Police Department and Office for Inclusion and Intercultural Initiatives 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 for Inclusion and Intercultural Initiatives 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.

The MSU Police provide all victims of relationship violence and sexual misconduct with information about the Office for Inclusion and Intercultural Initiatives 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 Office for Inclusion and Intercultural Initiatives to the extent such information will not interfere with law enforcement proceedings.

## **3. 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](mailto:noabuse@msu.edu) to speak with an advocate.

## **4. Investigation Timelines**

Investigations of relationship violence or sexual misconduct will normally be completed within 90 calendar days, with an additional 30 calendar days to complete a formal report where appropriate. Breaks in the University calendar (e.g., summer, spring break, winter break) and availability of the parties/witnesses may affect these timeframes. If the investigation cannot be completed within that timeframe, the complainant and the respondent will be contacted and provided an estimated date of completion. Specific timeframes for completion of each step of

the investigation process are outlined in the Office for Inclusion and Intercultural Initiatives Complaint Procedures ([www.inclusion.msu.edu/files/I3\\_COMPLAINT\\_PROCEDURES.pdf](http://www.inclusion.msu.edu/files/I3_COMPLAINT_PROCEDURES.pdf)).

## **5. 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 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, or an opportunity to change class, housing, or work assignments. The University may also issue “no-contact orders” between the complainant and respondent. Interim measures are available regardless of whether the victim chooses to report the relationship violence or sexual misconduct to law enforcement.

## **6. Complaints Against a Student**

Complaints of alleged relationship violence or sexual misconduct by a student will be investigated under the oversight of the University’s Title IX Coordinator. If that investigation results in a determination that relationship violence or sexual misconduct has occurred, the Title IX Coordinator (or designee) will file a complaint with the Department of Student Life, Student Conduct and Conflict Resolution to determine the appropriate sanction. Such a complaint will be heard by the Anti-Discrimination Policy/Relationship Violence Sexual Misconduct Policy Hearing Board (“ADP/RVSMP Hearing Board.”) In those cases, the Title IX Coordinator will be identified as the complainant, and it will be the prerogative of the victim to determine in what capacity, if any, he or she will participate (i.e., co-complainant, witness, or no participation).

A detailed description of the ADP/RVSMP Hearing Board can be found online at: <http://www.inclusion.msu.edu/equity/Interim%20ADP%20Student%20Disciplinary%20Hearing%20Procedures.pdf>.

## **7. Complaints Against an Employee**

Complaints of alleged relationship violence and sexual misconduct by a faculty or staff member will be investigated under the oversight of the University’s Title IX Coordinator, with the cooperation and involvement of the relevant unit administrator (e.g., supervisor, department chair, director). In most cases, the Office for Inclusion and Intercultural Initiatives will be the primary investigator of the complaint.

In addition to conferring with the Office for Inclusion and Intercultural Initiatives, the responsible unit administrator may confer with the Office of the General Counsel and with academic or human resources administrators. Guidelines for investigations conducted by the Office for Inclusion and Intercultural Initiatives are available at [www.inclusion.msu.edu/files/I3\\_COMPLAINT\\_PROCEDURES.pdf](http://www.inclusion.msu.edu/files/I3_COMPLAINT_PROCEDURES.pdf).

#### **L. 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 or the individual(s) involved is unwilling to pursue a complaint or participate in an investigation. If a University employee becomes aware of specific and credible allegations of relationship violence or sexual misconduct, whether through a complainant or otherwise, the allegations should be reported promptly to the Title IX Coordinator.

#### **M. Informal Resolution of Complaints**

Informal resolution, such as mediation, will not be used to resolve relationship violence or sexual violence complaints. On occasion, other complaints may be resolved informally. Informal resolution efforts are voluntary, and either party may request that a formal investigation of the complaint be commenced at any time. Informal resolution is facilitated by the Title IX Coordinator and does not involve any requirement that the parties meet unless both parties request such a meeting and the Title IX Coordinator determines such a meeting would be appropriate.

#### **N. Confidentiality of Investigations**

The investigation of relationship violence and sexual misconduct complaints will be conducted confidentially to the extent permitted by law, except insofar as information needs to be disclosed so that the University may effectively investigate the matter or take corrective action.

#### **O. 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 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.

If a complainant or witness believes that she or he is being subjected to retaliation, she or he should promptly contact the Title IX Coordinator.

#### **P. 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.

#### **Q. Unit Administrator Responsibilities**

The Office for Inclusion and Intercultural Initiatives 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 for Inclusion and Intercultural Initiatives 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 for Inclusion and Intercultural Initiatives; and/or the Office of the General Counsel.

## **R. False Complaints**

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.

## **IX. 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 for Inclusion and Intercultural Initiatives, 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 for Inclusion and Intercultural Initiatives 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](http://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>
- MSU Resource Guide on Sexual Assault as a Form of Sexual Harassment:  
<http://www.inclusion.msu.edu/equity/Sexual%20Assault%20Resource%20Guide.pdf>
- FAQ Regarding Sexual Assault:  
<http://www.inclusion.msu.edu/equity/FAQsRegardingSexualAssault.html>
- ADP User's Manual:  
<http://www.inclusion.msu.edu/equity/Interim%20ADP%20Student%20Disciplinary%20Hearing%20Procedures.pdf>
- MSU Resource Guide on Prohibited Harassment:  
<http://www.inclusion.msu.edu/files/Prohibited%20Harassment%20Resource%20Guide%20Updated.pdf>
- 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](http://www.notalone.gov).

## **X. Annual Crime Reporting & Timely Warnings**

As part of its annual reporting obligations under the Clery Act, the University discloses statistics regarding domestic violence, relationship violence, stalking, and sexual assaults that meet the definition of rape, sodomy, sexual assault with an object, fondling, incest, or statutory rape under federal law.

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 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.

## **XI. 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.

## **XII. Links to Appendices**

Appendix A: Frequently Asked Questions Document

Appendix B: Relationship Violence & Sexual Assault Reporting Process Summary

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: I3 Formal Complaint Process

Appendix G: Flow Chart: MSUPD Sexual Assault Investigation Process

Appendix H: Flow Chart: Student Conduct Process