

**The University of Michigan
Policy and Procedures on Student Sexual and
Gender-Based Misconduct and
Other Forms of Interpersonal Violence**

Effective July 1, 2016



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THE UNIVERSITY OF MICHIGAN POLICY AND PROCEDURES ON STUDENT SEXUAL AND GENDER-BASED MISCONDUCT AND OTHER FORMS OF INTERPERSONAL VIOLENCE

I. POLICY STATEMENT

The University of Michigan (University) supports its educational mission by fostering a community based on civility, dignity, diversity, inclusivity, education, equality, freedom, honesty, and safety. Consistent with these values, the University is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community. The University does not discriminate on the basis of sex or gender in any of its education or employment programs and activities.

The University prohibits sexual assault, sexual and gender-based harassment, intimate partner violence, stalking, retaliation, and violation of interim measures (collectively Prohibited Conduct). Prohibited Conduct is expressly forbidden and will not be tolerated at the University. It may also violate federal and state law.

The University adopts this Policy and Procedures on Student Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence (Policy or Policy and Procedures) with a commitment to: (1) eliminating, preventing, and addressing the effects of Prohibited Conduct; (2) fostering an environment where all individuals are well-informed and supported in reporting Prohibited Conduct; (3) providing a fair and impartial process for all parties; and (4) identifying the standards by which violations of this Policy will be evaluated and disciplinary action may be imposed. University students who violate this Policy may face disciplinary action up to and including expulsion.

The Policy and Procedures sets forth how the University will proceed once it is made aware of possible Prohibited Conduct in keeping with our institutional values and to meet our legal obligations under [Title IX of the Education Amendments of 1972](#) (Title IX); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), [as amended by the Violence Against Women Reauthorization Act of 2013 \(VAWA\)](#); and other applicable law.

II. TO WHOM THIS POLICY AND PROCEDURES APPLY

The Policy and Procedures apply to a University student or to a participant in any University-related program or activity. For purposes of this Policy, the individual who is reported to have experienced Prohibited Conduct, regardless of whether that individual makes a report or participates in the review of that report by the University, and regardless of whether that individual is a University student, is referred to as the Claimant. The individual who is reported to have engaged in Prohibited Conduct is referred to as the Respondent.

The University has jurisdiction over a Respondent whenever the Prohibited Conduct occurs:

- On campus, including the [University of Michigan Health System](#); or

- Off campus, including online or electronic conduct, if the conduct occurs:
 - In connection with a University-related program or activity, including University-sponsored study abroad, research or internship programs;
 - In a manner that may pose a serious threat of harm to any member(s) of the University community; or
 - In a manner that may have the effect of creating a hostile environment for any member(s) of the University community.

The specific procedures for reporting, investigating, and resolving Prohibited Conduct are based upon the nature of the Respondent's relationship to the University (student, employee, or third party). Where the Respondent is a student, the procedures for responding to reports of Prohibited Conduct committed by students are detailed in Sections VIII-XII below of the Policy and Procedures.

III. OTHER POTENTIALLY RELEVANT POLICIES AND PROCEDURES

A WHERE THE RESPONDENT IS AN EMPLOYEE

The policy and procedures for responding to reports of Prohibited Conduct committed by University employees are set forth in the [University's Sexual Harassment Policy](#) (SPG 201.89-0).

B. WHERE THE RESPONDENT IS BOTH A STUDENT AND AN EMPLOYEE

If the Respondent is a student and an employee, the University's Title IX Coordinator will determine which of the policy and procedures apply based upon the facts and circumstances, such as which role predominates in the context of the Prohibited Conduct. The procedures for responding to reports of Prohibited Conduct committed by student-employees, where the employment role predominates, are set forth in the University's [Sexual Harassment Policy](#) (SPG 201.89-0).

C. WHERE THE RESPONDENT IS A THIRD PARTY

A third party is any individual who is not a University student or employee or a participant in any University-related program or activity. The University's ability to take appropriate action against a third party will be determined by the nature of the relationship of the third party to the University. The Title IX Coordinator will determine the appropriate manner of resolution reflecting the University's commitment to a prompt and equitable process consistent with federal law, federal guidance, and this Policy.

Where the Respondent is a third party, the University's ability to take action may be limited.

Regardless of when or where the Prohibited Conduct occurred, the University will offer resources and assistance to community members who experience and/or are affected by Prohibited Conduct. In those instances when this Policy does not apply, the University will assist a Claimant in identifying and contacting external law enforcement and appropriate campus or community resources.

D. WHERE THE PROHIBITED CONDUCT IS COMMITTED IN THE CONTEXT OF ACTIVITIES OF A RECOGNIZED STUDENT ORGANIZATION

Recognized Student Organizations (RSOs) are registered with the [Center for Campus Involvement](#), as either Sponsored Student Organizations or Voluntary Student Organizations. The University has jurisdiction over RSOs and may address Prohibited Conduct committed in relation to activities of RSOs through the [Standards of Conduct for Recognized Student Organizations](#) and the [Student Organization Advancement and Recognition \(SOAR\) Accountability Procedure](#).

Schools or colleges within the University also have policies and honor codes, in addition to this Policy, that govern University-affiliated student organizations and that may be used, at University discretion, to address Prohibited Conduct committed in relation to student organization activities. Under this Policy, if the conduct alleged is a form of Prohibited Conduct, the Title IX Coordinator will be informed of, and maintain oversight over, the resolution of reports against RSOs to ensure that the University has taken appropriate action to eliminate the conduct, prevent its occurrence, and address its effects.

IV. TITLE IX COORDINATOR

The Title IX Coordinator is charged with monitoring the University's compliance with Title IX; ensuring appropriate education and training for students and employees; coordinating the University's investigation, response, and resolution of all reports under this Policy; and ensuring appropriate actions to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is supported by two Deputy Title IX Coordinators and other University administrators in the [Office for Institutional Equity \(OIE\)](#), the [Office of Student Conflict Resolution \(OSCR\)](#), the [Dean of Students Office \(DOSO\)](#), and other departments.

The Title IX Coordinator and Deputy IX Coordinators can be contacted by telephone, email, or in person during regular office hours:

Anthony Walesby, Title IX Coordinator
Pamela Heatlie, Deputy Title IX Coordinator
Elizabeth Seney, Deputy Title IX Coordinator
Institutional.equity@umich.edu

Office for Institutional Equity
2072 Administrative Services Building

1009 Greene Street
Ann Arbor, Michigan 48109
(734) 763-0235 (telephone)
(734) 647-1388 (tty)

The University wants every student who may have experienced harm to get the support and information they need, regardless of whether they would like to move forward with a report of potential policy violations or criminal conduct to campus officials or to law enforcement. The University offers a wide range of resources to provide support and guidance in response to any incident of Prohibited Conduct. For comprehensive information on accessing University and community resources, including emergency and ongoing assistance; health, mental health, and advocacy services; options for reporting Prohibited Conduct to the University and/or law enforcement; and available support with academics, housing, and employment: (1) University students, faculty, and staff should refer to the [Our Community Matters Resource Guide](#) or contact the Office for Institutional Equity, and (2) third parties should contact the Title IX Coordinator to discuss available University and/or community resources and reasonable available assistance.

V. CONFIDENTIAL AND NON-CONFIDENTIAL RESOURCES

There is a distinction between making a report to the University or law enforcement through designated reporting options (listed below in Section VI) and seeking confidential assistance through confidential resources (listed below in Section V(B)). Not every campus or community resource is confidential and this section explains to whom individuals who have experienced harm can talk without risk that what they share will be revealed to any other person without their express permission or as required by law.

A. SUPPORTIVE AND PROTECTIVE MEASURES (ALSO KNOWN COLLECTIVELY AS INTERIM MEASURES)

Supportive and protective measures are those services, accommodations, and other assistance the University puts in place after receiving notice of Prohibited Conduct, but before any final outcomes (investigatory, disciplinary, or remedial) have been determined.

The University will implement reasonably available interim measures to protect a Claimant and facilitate the Claimant's continued access to University employment or educational programs and activities. Interim measures may be both supportive and protective measures.

Supportive measures are measures typically implemented for Claimants and are designed to address a Claimant's safety, well-being, and continued access to educational opportunities. Supportive measures are available regardless of whether the person who requests a measure makes a report to the University or to law enforcement; whether the person participates in any investigation; or whether the University or law enforcement investigates a report that has been submitted. The University may also implement supportive measures for Respondents, witnesses, and other members of the University community. Supportive measures are voluntary and may be modified or discontinued at any time at the request of the individual.

Supportive measures may include:

- Academic support services and accommodations, including the ability to reschedule exams and assignments, transfer course sections, or withdraw from courses without penalty;
- An escort to ensure safe movement between classes and activities;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- On-campus medical services and/or assistance in connecting to community-based medical services;
- No contact directives (to instruct an individual to stop all attempts at communication or other interaction with another individual);
- Housing assignment or contract modifications (for University Housing) or assistance with residence modification if living off-campus;
- Change in transportation arrangements, such as parking in a different location;
- Work schedule or job assignment modifications (for University employment); or
- Assistance with obtaining personal protective orders.

Protective measures are measures that typically involve action against a Respondent by the University and failure to comply with these measures may result in a separate violation under this Policy. Protective measures are only available if the person requesting the measures makes a report to the University and are instituted following the initiation of a University investigation and prior to a determination of the final outcome. The nature of the protective measures is based upon the facts reasonably available at the time of the decision to implement the protective measures. Implementation of protective measures usually occurs within one to two days of the Respondent being notified that a formal resolution process has been initiated.

Protective measures may include:

- Limiting an individual's access to certain University facilities or activities;
- Academic schedule modifications (typically to separate Claimant and Respondent);
- Work schedule or job assignment modifications including suspending employment with or without pay (for University positions); or
- Imposing an interim suspension.

Protective measures may also be appropriate for witnesses and other members of the University community, following the initiation of an investigation.

Implementation of supportive or protective measures should not be taken to suggest that the University has made any decision about the merits of the report.

The University will keep private any supportive or protective measures provided under this Policy to the extent practicable, and will promptly address any violation of protective measures under this Policy and Procedures.

Supportive or protective measures or both may be kept in place beyond the resolution of the matter. Claimants who wish to request supportive measures confidentially may do so through the [Sexual Assault Prevention and Awareness Center](#). Respondents who wish to request supportive measures may do so through the Respondent Support Program.

The Title IX Coordinator or designee is available to meet with a Claimant or Respondent to address any concerns about the adequacy or need for supportive or protective measures. Claimants or others should report information concerning a violation of protective measures to the Title IX Coordinator as soon as possible, and should dial 911 in situations of immediate health or safety concern.

B. CONFIDENTIAL RESOURCES

Confidential resources are those campus and community professionals who have the ability to maintain legally-protected confidentiality with the individual who shared the information. Confidentiality means that information shared by an individual with a confidential resource cannot be revealed to any other person without express permission of the individual, or as otherwise permitted or required by law. Confidential resources are prohibited from breaking confidentiality unless (1) given permission to do so by the person who disclosed the information; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order.

Confidential resources available to students include the [Sexual Assault Prevention and Awareness Center](#) (SAPAC), [Counseling and Psychological Services](#) (CAPS) and the [University Ombuds](#). SAPAC provides direct support to Claimants, including crisis intervention; advocacy; assistance in navigating academic, personal, and community impact; and assistance in connecting with other available support and resources. For more information, please see the [Our Community Matters Resource Guide](#).

C. NON-CONFIDENTIAL RESOURCES

University resources who are not confidential resources as defined above will make every effort to respect and safeguard the privacy of the individuals involved. Privacy means that concerns about Prohibited Conduct will be shared with a limited circle of University employees who need to know only to assist in the assessment, investigation, and resolution of the report.

The DOSO provides direct support to Claimants, Respondents, or other students who are involved in reports of Prohibited Conduct. This support includes navigating academic, personal, and community impact; advising on policy and procedures; and connecting to other available support and resources. The Respondent Support Program is housed in the DOSO and has dedicated, trained staff who provide direct support to Respondents who are involved in reports of Prohibited Conduct.

Additional information about these and other resources is contained in [Our Community Matters Resource Guide](#).

VI. REPORTING OPTIONS

The University strongly encourages prompt reporting of conduct that may violate this Policy. Prohibited Conduct may be reported to local law enforcement or the University, including the [University of Michigan Police Department \(UMPD\)](#), or both.

Any individual, not just Claimant, may make a report under this Policy, including a student, employee, visitor, guest or other third party. An individual may choose to report to law enforcement, the University, to both, or to neither. Support and resources are always available to a reporting party regardless of the chosen reporting option.

Making a report to law enforcement or the University by contacting a reporting option (as listed below) means that the report will be shared with others as appropriate.

A. REPORTING TO LAW ENFORCEMENT

The University encourages anyone who experiences Prohibited Conduct to make a report to UMPD, which has a dedicated unit for sexual assault cases. Prompt reporting allows law enforcement to collect and preserve evidence.

An individual who wishes to pursue criminal action in addition to, or instead of, making a report to the University for a Policy violation may contact law enforcement directly by calling:

- 911 (for emergencies);
- [University of Michigan Police Department](#): (734) 763-1131 (non-emergencies);
- [Ann Arbor Police Department](#): (734) 994-2911;
- [Ypsilanti Police Department](#): (734) 483-9510; or
- [Washtenaw County Sheriff Department](#): (734) 971-8400.

An individual has the right to report an incident, or to decline to report an incident, to law enforcement. An individual may decline to participate in a law enforcement interview. A report to law enforcement is separate from a report to the University.

Upon request, University staff will assist an individual in making a report to law enforcement. For example, SAPAC will assist any person in making a report to law enforcement, no matter where the Prohibited Conduct occurred. For conduct occurring in the residence halls or at the University Health System, Housing Security or Hospital Security, respectively, can assist in making a report to UMPD. For reports of off-campus Prohibited Conduct, UMPD can assist in identifying the appropriate law enforcement agency to which to make the report.

B. REPORTING TO THE UNIVERSITY

Individuals who choose to pursue action under this Policy should make a report to the University Title IX Coordinator at OIE through either of these options:

- Contacting the Title IX Coordinator in person, by e-mail or by phone:
Anthony Walesby, Title IX Coordinator
(734) 763-0235 or (734) 647-1388 (tty)
Institutional.equity@umich.edu
2072 Administrative Services Bldg.
1009 Greene St., Ann Arbor, MI 48109
- Reporting on-line through the Policy website:
<https://studentsexualmisconductpolicy.umich.edu>

Individuals can receive assistance with reporting to the University from designated University staff, including but not limited to SAPAC, DOSO, OSCR, UMPD, or the [University Ombuds](#).

1. Anonymous Reports

Any individual may make a report of Prohibited Conduct to the University without disclosing one's name at <http://studentsexualmisconductpolicy.umich.edu/report-an-incident>. Depending on the level of information available about the incident or the individuals involved, the University's ability to respond to an anonymous report may be limited. The University will, however, take whatever steps it deems appropriate and in the best interests of the overall University community, consistent with the information available.

2. Time Frame for Reporting an Incident

Although the University does not limit the time frame for reporting Prohibited Conduct, to promote timely and effective review, the University strongly encourages individuals to report possible Prohibited Conduct within 180 calendar days of the last occurrence of the concerning conduct. A report made after 180 days may make it more difficult to gather relevant and reliable information.

If the Respondent is no longer a student or participant in any University-related program or activity at the time of the report, or if the conduct does not fall within the scope of the Policy, the University may not be able to take action against the Respondent. The University will, however, help a Claimant identify reporting options external to the University and provide support and resources.

3. How the University Shares Information about Prohibited Conduct with Law Enforcement

Upon learning of concerns of possible Prohibited Conduct, the Title IX Coordinator or investigator will submit a report to UMPD. The purpose of this report is to comply with the University's federal reporting obligations, to facilitate accurate compilation of crime statistics, and to ensure that other public safety responsibilities are addressed. The report to UMPD contains all available information known to the investigator at the time, including the identities of the parties involved, a brief summary of the reported conduct, and whether the Claimant has and/or is willing to speak with law enforcement. The investigator role is described fully in Section-XII(A)(1).

After submitting the initial report, if there are significant developments in the available information or the Claimant indicates whether they wish to meet with law enforcement, the Title IX Coordinator or investigator will update UMPD accordingly. This reporting will protect the privacy of the individuals involved to the extent possible. The Claimant or others may be contacted by UMPD or another law enforcement agency to follow-up on the information received from the University. An individual may decline to participate in a law enforcement interview.

4. Information on Amnesty to Students when Reporting Prohibited Conduct

Sometimes students are reluctant to seek help after experiencing Prohibited Conduct, or may be reluctant to help others who may have experienced Prohibited Conduct, because they fear being held responsible by the University or law enforcement for underage alcohol consumption. To better ensure that individuals under the legal drinking age who may be at medical risk as a result of alcohol intoxication will receive prompt and appropriate medical attention, the State of Michigan has adopted a medical amnesty law to remove perceived barriers to seeking help.

Michigan law includes exemption from prosecution for the following:

- A minor who voluntarily accesses a health facility or agency for treatment or observation after consuming alcohol;
- Any minor who accompanies a minor who voluntarily accesses a health facility or agency for treatment or observation after consuming alcohol; or

- Any minor who initiates contact with law enforcement or emergency medical services personnel for the purpose of obtaining medical assistance in connection with their own personal consumption of alcohol or consumption by others.

Similarly, the University will not pursue University misconduct charges against any participant in an investigation under this Policy for potential violations of other University policy for personal consumption of alcohol or other drugs identified during an investigation, as long as any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an assessment, educational discussion or pursue other non-disciplinary options to address the alcohol or other drug use.

C. REPORTING BY UNIVERSITY EMPLOYEES

1. Responsible Employees

Responsible employees must immediately report any information they know about suspected Prohibited Conduct to OIE or the Title IX Coordinator. Responsible employees may include non-employees in addition to employees. Failure by a responsible employee to timely report a suspected Prohibited Conduct may subject them to appropriate discipline, up to and including removal from their position. Responsible employees may report to the Title IX Coordinator through any of the reporting options previously noted in Section VI(B).

The following individuals are responsible employees:

- Regents;
- Executive officers (including those serving in the role of Associate or Assistant Vice President/Provost, as designated by the executive officer);
- Deans, directors, department heads/chairs (including those serving in assistant or associate roles);
- Graduate and undergraduate chairs;
- Supervisors who have hiring or firing power over at least three employees who are not student or post-doc employees;
- University faculty or staff providing oversight to, or traveling with, students¹ on University related travel abroad, including University-sponsored study abroad, research, fieldwork, or internship programs;
- Any individuals, whether employees or not, who serve as advisors to or coaches of University-recognized student group;
- All individuals, including student-employees (such as Resident Advisors), working in Student Life, the Division of Public Safety and Security, Intercollegiate Athletics, and

¹ "Students" means University students or students from other U.S. based institutions participating in University related travel abroad.

OIE, except those who serve in non-supervisory positions in dining services, clerical or custodial/maintenance capacities;

- Campus Security Authorities designated by the University under the Clery Act not otherwise specified in this provision; and
- Individuals serving in any of the positions described above on an acting or interim basis.

Faculty and staff who do not meet any of these criteria are not considered responsible employees. Individuals who are confidential resources are not responsible employees.

Any questions regarding who is a responsible employee should be directed to the Office of the Vice President and General Counsel (OGC) at (734)764-0304 or OIE at (734)763-0235.

2. All Other Employees

Reporting is an important tool to address Prohibited Conduct. Thus, while all other employees who are not designated as confidential resources should safeguard an individual's privacy, they are also strongly encouraged to share any information about such conduct with OIE, the Title IX Coordinator, or a member of DOSO.

3. Confidential Resources

As explained above, confidential resources will not share information about an individual (including whether that individual has received services) without the individual's express written permission, unless there is a continuing threat of serious violence or there is a legal obligation to reveal such information.

VII. PROHIBITED CONDUCT

Conduct under this Policy is prohibited regardless of the sex, sexual orientation and/or gender identity or expression of the Claimant or Respondent. Prohibited Conduct includes the following specifically defined forms of behavior: sexual or gender-based harassment, sexual assault, intimate partner violence, stalking, retaliation, and violation of interim measures.

A. SEXUAL OR GENDER-BASED HARASSMENT

1. Sexual Harassment

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in Section VII(A)(2)(a) and/or (b) below are present.

2. Gender-Based Harassment

Gender-based harassment includes harassment based on actual or perceived gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (a) or (b) below, are present.

- (a) Submissions to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities, or is used as the basis

for University decisions affecting the individual (often referred to as “quid pro quo” harassment); or

- (b) Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably (i) interferes with, (ii) limits, or (iii) deprives an individual from participating in or benefitting from the University’s education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, the nature, frequency, intensity, location, context, and duration of the behavior.

Although repeated incidents generally create a stronger claim of sexual harassment, a serious incident, even if isolated, can be sufficient. For example, a single instance of sexual assault may constitute sexual harassment.

Examples of conduct that may constitute sexual or gender-based harassment include:

- Sexual assault, intimate partner violence, or stalking as defined by this Policy;
- Unwanted touching or sexual advances;
- Unwanted written, verbal, or electronic statements of a sexual nature, directed at an individual including sexually suggestive comments, jokes, or innuendos;
- Written, verbal, or electronic statements that disparage a person based on a perceived lack of stereotypical masculinity or femininity or perceived sexual orientation;
- Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purposes of compromising that person’s ability to give consent to the alleged sexual activity;
- Allowing other individuals to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., FaceTime, Snapchat, Skype or live-streaming of images) without consent of the participant(s);
- Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);
- Recording, photographing, disseminating, or transmitting intimate or sexual utterances, sounds, or images of private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts or buttocks) without the consent of the participants;

- Excluding a person from a program or activity based on pregnancy;
- Touching oneself sexually for others to view without their consent;
- Excluding a person from a program, activity or facility based on sexual orientation or gender identity.

B. SEXUAL ASSAULT

Sexual assault is touching of a sexual nature, including: oral-genital contact, anal intercourse, or vaginal intercourse; anal, oral or vaginal penetration with an object; or other sexual contact that occurs without consent. Sexual contact includes: (a) intentional touching of the breasts, buttocks, groin, or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; or (b) making another touch you or themselves with or on any of these body parts. Consent, as well as the terms force, coercion, and incapacitation are further defined below.

1. Consent

Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in a particular activity. Consent must be voluntarily given and cannot be obtained through coercion or force. For purposes of this Policy, in evaluating whether consent was freely sought and given, the issue is whether the Respondent knew, or reasonably should have known, that the activity in question was not consensual, or that the Claimant was unable to consent due to incapacitation. Incapacitation, coercion, and force are defined below.

A person who initiates a specific sexual activity is responsible for obtaining consent for that activity.

Consent is not to be inferred from silence, passivity, or a lack of resistance, and relying on non-verbal communication alone may not be sufficient to ascertain consent.

Consent is not to be inferred from an existing or previous dating or sexual relationship. Even in the context of a relationship, there must be mutual consent to engage in any sexual activity each time it occurs.

Consent to engage in one sexual activity at one time is not consent to engage in a different sexual activity or to engage in the same sexual activity on a later occasion.

Consent to engage in sexual activity with one person is not consent to engage in sexual activity with any other person.

Consent can be withdrawn by either party at any point. Once consent is withdrawn, the sexual activity must cease immediately.

2. Incapacitation

Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

A person who is incapacitated is unable, temporarily or permanently, to give consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

When alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs; the level of impairment must be significant enough to render the person unable to give consent. The impact of alcohol and other drugs varies from person to person, and a person's level of intoxication may vary based upon the nature and quality of the substance imbibed, the person's weight, tolerance, ingestion of food and other circumstances. A person's level of impairment may also change rapidly.

In evaluating consent in cases of alleged incapacitation, the University asks two questions: (1) *Did the person initiating sexual activity know that the other party was incapacitated? and, if not,* (2) *Should a sober, reasonable person, in the same situation, have known that the other party was incapacitated?* If the answer to either of these questions is "yes," consent was absent and the conduct is likely a violation of this Policy.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs often include slurred or incomprehensible speech, unsteady manner of walking, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: Do you know where you are? Do you know how you got here? Do you know what is happening? Do you know whom you are with?

One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using drugs. The use of alcohol or other drugs may impair either party's ability to determine whether consent has been sought or given. If one has doubt about either party's level of intoxication, the safe thing to do is to forego all sexual activity. A Respondent's intoxication will not excuse the Respondent from the obligation to obtain consent as described in this Policy.

3. Coercion

Coercion is conduct, including intimidation and express or implied threats of immediate or future physical, emotional, reputational, financial, or other harm to the Claimant or others, that would

reasonably place an individual in fear, and that is employed to compel someone to engage in sexual activity.

4. Force

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether to participate in sexual activity.

C. STALKING

Stalking occurs when a person engages in a course of conduct toward another person under circumstances that would cause a reasonable person to fear bodily injury to themselves or to others, or experience substantial emotional distress. Stalking often involves individuals who are known to one another or who have a current or previous relationship, but may also involve individuals who are strangers. Stalking behavior generally addressed under this Policy typically includes one or more of the following elements:

- Is sexual or romantic in nature;
- Is committed by a Claimant's current or former partner of an intimate, romantic or sexual relationship; or
- Is related to the Claimant exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived sex, gender, sexual orientation, gender identity, or gender expression of the Claimant.

The Title IX Coordinator, in consultation with OSCR will determine if the reported conduct meet these criteria. Stalking behavior not addressed under this Policy may be addressed under the [Statement of Student Rights and Responsibilities](#) as harassment.

For purposes of this Policy, course of conduct means two or more unwelcome acts in which a person directly, indirectly, or through other persons, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person, or interferes with a person's property.

D. INTIMATE PARTNER VIOLENCE

Intimate partner violence, also referred to as dating violence, domestic violence, or relationship violence, includes any act of physical violence, or threatened act of physical violence that occurs between individuals who are or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate partner violence may also include forms of economic or emotional abuse, including any behaviors that intimidate, manipulate, humiliate, isolate, frighten,

terrorize, coerce, threaten, blame, hurt, injure, or wound someone.² The determination of whether any physical, emotional or economic abuse constitutes intimate partner violence is whether the conduct is so severe, pervasive or persistent as to significantly interfere with an individual's ability to learn and/or work or cause substantial emotional distress, when judged both objectively (meaning that a “reasonable person” would find the behavior to be emotionally abusive) and subjectively (meaning the impacted individual felt the behavior was emotionally abusive).

Intimate partner violence may include any form of Prohibited Conduct under this Policy, (including sexual assault, and stalking), and physical assault. Physical assault will be addressed under this Policy if it involves sexual or gender-based harassment, intimate partner violence, or is part of a course of conduct under the stalking definition. Intimate partner violence can be a single act or a pattern of behavior within a relationship.

E. RETALIATION

Retaliation means any adverse action taken by individuals or groups against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this Policy. A good faith pursuit by either party of civil, criminal or other legal action does not constitute retaliation.

F. VIOLATION OF PROTECTIVE MEASURES

Protective measures are typically measures Respondents are required to comply with and may include: no-contact directives, work or academic schedule or housing modifications or other actions that the University may implement to protect and/or support Claimants, witnesses, or other members of our University community as appropriate. Protective measures are discussed in more detail in Section V(A) above. Failure of a Respondent to comply with protective measures as required is a separate and independent violation of this Policy.

VIII. UNIVERSITY RESOLUTION

As set forth in more detail below, the University uses two processes to resolve reports of Prohibited Conduct under this Policy: (1) formal resolution, which involves an investigation and, if applicable, an appeal and sanctions, and (2) alternative resolution, which includes informal or restorative options for resolving reports of Prohibited Conduct. The Title IX Coordinator will determine the appropriate process for reviewing the concerns raised after making an initial assessment of the reported information, or, where the Claimant requests anonymity, that an investigation not be pursued, or that no disciplinary action be taken, after receiving input from the review panel.

² For the purposes of Clery reporting, the University will evaluate the existence of an intimate relationship based upon the Claimant’s statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

The period from commencement of an investigation, which begins with the notice of an investigation to the Respondent, through resolution (finding and sanction, if any) typically should not exceed sixty (60) calendar days. This time frame may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation; comply with a request by law enforcement for temporary delay to gather evidence; accommodate the availability of witnesses; account for University breaks or vacations; account for case complexities (including the number of witnesses and volume of information provided by the parties), or for other legitimate reasons.

Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness, fairness, and promptness.

IX. INITIAL ASSESSMENT

After receiving a report of Prohibited Conduct committed by a student, the Title IX Coordinator or designee will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. As part of the initial assessment, the Title IX Coordinator will assess the Claimant's safety and well-being and offer the University's immediate support and assistance; assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the Claimant, the Respondent, any witness, and/or any other individual with knowledge of the reported incident; and ascertain the ages of the Claimant and Respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective service agency. The Title IX Coordinator will also ensure that the Claimant receives a written explanation of all available resources and options, including the following:

- Immediate support and assistance available through University resources and the Claimant's right to supportive measures regardless of whether they choose to participate in a University or law enforcement investigation;
- The Claimant's right to seek medical treatment and information on preserving potentially key forensic and other evidence;
- The Claimant's right to seek protective measures when the University pursues an investigation;
- The University's prohibition against retaliation, that the University will take prompt action when retaliation is reported, and how to report acts of retaliation; and
- The opportunity to meet with the Title IX Coordinator in person to discuss their resources, rights, and options.

When the Title IX Coordinator decides to initiate an investigation, impose protective measures, or take any other action that impacts a Respondent, the Title IX Coordinator will also ensure that

Respondent is notified and receives written information on available resources and options. The Title IX Coordinator will ensure that a Respondent is informed of:

- The nature of the investigation, including a concise summary of the conduct at issue;
- The immediate support and assistance available through University resources;
- The University's prohibition against retaliation, that the University will take prompt action when retaliation is reported, and how to report acts of retaliation; and
- The opportunity to meet with the Title IX Coordinator in person to discuss their resources and options.

X. UNIVERSITY ACTIONS FOLLOWING AN INITIAL ASSESSMENT

Upon completion of an initial assessment, the Title IX Coordinator will determine the course of action under this Policy, which may include:

- Formal resolution: includes (a) an investigation by OIE to determine, by a preponderance of the evidence, if there has been a Policy violation; (b) the imposition of sanctions and other appropriate remedies if there has been a finding; and (c) the opportunity to challenge the outcome of the investigation or the sanction through an appeal;
- Alternative resolution: does not include an investigation or disciplinary action against a Respondent, but may include imposing appropriate and reasonable remedies, including education and training, as agreed to by the parties. Alternative resolution may be appropriate as an additional measure during sanctioning, or after a sanction has been completed and a Respondent is returning to the University community; or
- Additional remedies: may include training and other educational measures to members of the University community.

Detailed information regarding formal resolution, alternative resolution, and additional remedies is set forth below in Sections XII, XIII, and XIV, respectively.

The Title IX Coordinator's course of action will be guided by: (1) whether the Claimant wishes to pursue formal resolution or requests anonymity, that an investigation not be pursued, and/or that no disciplinary action be taken; (2) the availability of information or evidence suggesting that a policy violation may have occurred; and (3) the University's Title IX obligation to investigate or otherwise determine what happened and take corrective action as appropriate to eliminate, prevent and address the effects of the Prohibited Conduct.

A. WHERE THE CLAIMANT WISHES TO PURSUE FORMAL RESOLUTION

In every case in which the Claimant reports Prohibited Conduct and requests an investigation and the University has disciplinary authority over the alleged Respondent, the Title IX Coordinator will initiate formal resolution under this Policy.

In some situations, the University's actions will be limited if the reports of Prohibited Conduct are against a third party.

Even though the University's ability to take direct action against a particular third party may be limited, the University will still take steps to provide the Claimant immediate support and assistance available through University resources and resources available from entities outside the University.

B. WHERE THE CLAIMANT REQUESTS ANONYMITY, THAT AN INVESTIGATION NOT BE PURSUED, AND/OR THAT NO DISCIPLINARY ACTION BE TAKEN

A Claimant may request that their name or other personally-identifiable information not be shared with a Respondent, that no investigation be pursued, or that no disciplinary action be taken. In these instances, before taking any further investigative steps, the University will forward Claimant's requests, along with all available information about the report gathered during the initial assessment, to a review panel, described in Section XI below.

C. WHERE THE CLAIMANT REQUESTS THE MATTER BE RESOLVED THROUGH ALTERNATIVE RESOLUTION

A Claimant may request to the Title IX Coordinator or designee that the reported matter be resolved through an alternative resolution process. In these instances, the Title IX Coordinator will review the matter to determine its appropriateness for such a process and to determine whether any additional action needs to be taken by the University. If the matter is appropriate to be resolved through alternative resolution, the Title IX Coordinator will refer the matter to OSCR for alternative resolution as described further in this policy.

XI. REVIEW PANEL

The review panel is comprised of the Title IX Coordinator and additional trained faculty or staff members as determined by the Title IX Coordinator. The review panel will consider a Claimant's request for anonymity, that an investigation not be pursued, or that no disciplinary action be taken. The review panel will balance the Claimant's request against the following factors in reaching a determination on whether the request can be honored:

- The totality of the known circumstances;

- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the Claimant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other Prohibited Conduct or other misconduct by the Respondent;
- Whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- The Claimant's interest not to pursue an investigation or disciplinary action and the impact of such actions on the Claimant;
- Whether the University possesses other means to obtain relevant evidence;
- Due process considerations for both the Claimant and the Respondent;
- The University's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

The review panel will provide information and advice to the Title IX Coordinator such as:

- Their individual and collective perspectives on whether, how, and to what extent, the University should further investigate the report of Prohibited Conduct;
- What steps may be possible or appropriate when a Respondent is unknown or the Claimant requests anonymity; and
- What other measures or remedies might be considered to address any effects of the reported behavior on the campus community.

The Title IX Coordinator will make a determination regarding the appropriate manner of resolution under the Policy. The University will seek resolution consistent with the Claimant's request, if it is possible to do so, based upon the facts and circumstances, while also protecting the health and safety of the Claimant and the University community.

A. DETERMINATION THAT A CLAIMANT'S REQUEST(S) CAN BE HONORED

Where the review panel determines that a Claimant's request(s) can be honored, the University may nevertheless take other appropriate steps to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Claimant and the University community. Those steps may include offering appropriate remedial measures to the Claimant, providing targeted training and prevention programs, and/or providing or imposing other remedies. The Claimant may choose to pursue alternative resolution (if available) or formal resolution under this Policy. The Title IX Coordinator also may request that a report be re-opened and pursued under the Policy and Procedures if any new or additional information becomes available.

B. DETERMINATION THAT A CLAIMANT'S REQUEST(S) CANNOT BE HONORED

In those instances when the Title IX Coordinator determines that the University must proceed with an investigation despite the Claimant's request that it not occur, the Title IX Coordinator will notify the Claimant that the University intends to initiate an investigation, but that the Claimant is not required to participate in the investigation or in any of the actions taken by the University.

The University's ability to fully investigate and respond to a report may be limited if the Claimant requests anonymity or declines to participate in an investigation. The University will, however, pursue other steps to limit the effects of the Prohibited Conduct and prevent its recurrence. Those steps may be taken as part of an alternative resolution.

In all cases, the final decision on whether, how, and to what extent the University will conduct an investigation, and whether other measures will be taken in connection with any allegation of Prohibited Conduct, rests solely with the Title IX Coordinator.

XII. FORMAL RESOLUTION

Formal resolution typically begins when:

- A Claimant has reported one or more instances of Prohibited Conduct and requests, at any time, an investigation of the concern; or
- After receiving a report of Prohibited Conduct, the Title IX Coordinator, in consultation with the review panel, has determined, based on the totality of the circumstances and the information available that a formal resolution process is required to ensure the health and safety of the Claimant or University community members.

While the Title IX Coordinator will identify the most effective means to formally review a report, in most instances the review will involve an investigation.

A. INVESTIGATION

An investigation will afford both the Claimant and Respondent a full and fair opportunity to be heard, to submit information and other evidence, and to identify witnesses. During an investigation, the investigator typically will meet separately with the Claimant, Respondent and pertinent witnesses; offer the parties the equal opportunity to submit and/or identify related and relevant information or evidence; and gather other relevant information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person) and other electronic records as appropriate. Following the interview, each person will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness.

The Claimant or Respondent may, under limited and extenuating circumstances, make a request to the investigator to submit a written statement instead of participating in an interview. The decision regarding whether to allow a party to submit a written statement in lieu of participating in an interview belongs to the Title IX Coordinator. In addition, the Claimant or Respondent may provide other supporting materials relevant to the matter. However, it is the responsibility of the University, not the Claimant or Respondent, to gather relevant evidence to the extent reasonably available. The investigator may impose time and page limits on written documents and information presented by either person as part of the investigation. The University's review will be thorough, reliable and impartial.

- 1. Role of Investigator.** Whenever a formal resolution is initiated, the Title IX Coordinator will designate an investigator. The investigator will typically be a member of OIE, although the investigator may be any appropriately trained individual. The investigator must be impartial, free of any actual conflict of interest, and have specific and relevant training and experience.

A Claimant or Respondent who has concerns that the assigned investigator cannot conduct a fair and unbiased review (e.g., has a personal connection with one of the parties or witnesses, etc.), may report those concerns to the Title IX Coordinator who will assess the circumstances and determine whether a different investigator should be assigned to the matter.

Investigators do not function as advocates for Claimants or Respondents. Investigators can, however, identify campus support and other resources for Claimants and Respondents and refer them to DOSO, SAPAC, or Respondent Support Program to coordinate services for students upon request.

- 2. Notice of the Investigation.** Before any interview by an investigator of the Respondent, the Respondent will be informed in writing of the initiation of the investigation. The Claimant will also be notified, in writing, unless the Claimant has requested that the University not contact them. The written information will include the identities of the parties, if known, a concise summary of the conduct at issue, and potential Policy violations. The Respondent will be informed in writing

if, during the investigation, additional information is disclosed that may also constitute Prohibited Conduct under the Policy.

3. **Assumption of Good Faith Reporting.** The University presumes that reports of Prohibited Conduct are made in good faith. A finding that the behavior at issue does not constitute a violation of this Policy or that there is insufficient evidence to conclude that the incident occurred as reported, does not mean that the report was made in bad faith. The University encourages all individuals who have experienced or witnessed behavior they believe violates this Policy to report the matter so that it may be addressed, without fear of consequences from the University, if their good faith report cannot be substantiated or the behavior does not constitute a violation of this Policy.
4. **Presumption of Non-Responsibility and Standard of Proof.** The investigation is a neutral, fact-gathering process. The Respondent is presumed to be not responsible. This presumption may be overcome only where the investigator and/or external reviewer, as defined in Section XII(C)(2), conclude that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the Respondent violated the Policy. A preponderance of the evidence means that it is more likely than not based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated this Policy.
5. **Participation by the Parties and Witnesses Is Voluntary.** Claimants, Respondents, or witnesses may choose to participate or decline to participate in the formal resolution process. However, even if a Claimant or Respondent declines to participate, the University may continue to investigate the report and issue findings based on available information.
6. **Expectation of Claimant, Respondent, and Witnesses in an Investigation.** The Claimant, Respondent, witnesses and others sharing information with the investigator are expected to provide truthful information in any proceeding under this Policy.
7. **Acceptance of Responsibility.** The Respondent may, at any time, elect to resolve the formal resolution process by accepting responsibility for the Prohibited Conduct, in which case the Title IX Coordinator will refer the matter to the sanction board to determine the appropriate sanctions.
8. **Advisers.** Throughout the formal resolution process, a Claimant, Respondent or witness may have an adviser of their choice. An adviser is an individual chosen by a Claimant, Respondent, or witness to provide support and guidance during the review of a report of Prohibited Conduct under this Policy. An adviser may not be a witness or otherwise have any conflicting role in the process. An adviser may be an advocate and/or an attorney.

Any person who serves as an adviser should plan to make themselves available for meetings throughout the process. The adviser may assist with all written submissions made by a Claimant or a Respondent, and may facilitate scheduling and other processes. During any meeting, the adviser is present to observe and provide support and counsel to the participant. The adviser may not testify or obstruct the meeting.

The University has the right at all times to determine what constitutes appropriate behavior on the part of an adviser and to take appropriate steps to ensure compliance with the Policy.

9. **Evidence.** The investigator, not the Claimant or Respondent, is responsible for gathering relevant evidence to the extent reasonably possible. However, each person will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence. Both persons are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution.

The investigator will review all information identified or provided by the parties and will determine the appropriateness, relevance, and probative value of the information developed or received during the investigation. All information considered relevant by the investigator will be provided to the parties for their review and comment, as described below.

In general, a person's medical and counseling records are confidential and not accessible to the investigator unless the person voluntarily chooses to share those records with the investigator. In those instances, the information, if relevant, will be summarized in the preliminary report for both person's review, and the relevant portions of the medical records made available for the other party's review.

The investigator may consult experts who have no connection to the reported incident when expertise on a specific topic or submitted evidence is needed to gain a fuller understanding of the relevance or value of the evidence or the issue at hand.

10. **Prior or Subsequent Conduct of the Respondent.** Prior or subsequent conduct of the Respondent will never be used to prove character, but may be considered for other purposes, such as determining pattern, knowledge, intent, or the Respondent's reasons for taking the action. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation.

The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially

similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. The investigator will determine the relevance of this information and both persons will be informed if evidence of prior or subsequent conduct is deemed relevant.

11. **Prior Sexual Contact Between Claimant and Respondent.** Prior sexual contact between a Claimant and a Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history between the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the question being determined is whether consent was given through mutually understandable actions (rather than words), information about prior sexual contact, in the totality of the evidence considered, may help the investigator understand the manner and nature of sexual communication between the two persons. This information may, therefore, be relevant in determining whether consent was sought and given during the incident in question.

However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act. Consent on one occasion does not, by itself, constitute consent on a subsequent occasion. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual contact is deemed relevant.

In addition, and as required by applicable state and federal law, other prior sexual activity of the Claimant or Respondent may be relevant only in certain, very limited circumstances.

12. **Witnesses.** Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character.

Witnesses will have the opportunity to discuss the investigation process and participate in an interview. Following the interview, a witness will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness.

Where witnesses are interviewed as part of the investigation, the investigator will produce to Claimant and the Respondent for their review and comment a written summary of the witness' interviews, which will identify the witness by name and relationship to each person and the University. This information will be provided in or with the draft investigation report.

13. **Coordination with Law Enforcement.** Where the University is made aware that there is a concurrent criminal investigation, the investigator will inform any law enforcement agency that is conducting its own investigation that a University investigation is also in progress; ascertain the status of the criminal investigation;

and determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

At the request of law enforcement, the University may agree to temporarily defer part or all of the investigation until after the initial evidence-gathering phase of the law enforcement investigation is complete. The investigator will communicate with the parties, consistent with the law enforcement request and the University's obligations, about resources and support, procedural options, anticipated timing, and the implementation of any necessary interim measures for the safety and well-being of all affected individuals.

Standards for criminal investigations are different than the standards for a violation of this Policy, and therefore, the University will not base its decisions under this Policy solely on law enforcement reports and/or actions. The University will fulfill its legal and ethical obligation to take immediate and appropriate action in response to a report of Prohibited Conduct, even if there are other external processes or procedures pending in connection with that same report. Similarly, if the University finds Prohibited Conduct has occurred, the University will take appropriate action, regardless of external proceedings that may also be pending.

- 14. Time Frame for Completion of Investigation.** The period from commencement of an investigation, which begins with notice of the investigation to the Respondent, through resolution (finding) typically should not exceed forty-five (45) calendar days.

This time frame may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by law enforcement for temporary delay to gather evidence, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for case complexities including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons.

The investigator will notify the Claimant and Respondent in writing of any extension of this time frame and the reasons for such extension as soon as practicable.

- 15. Preliminary Investigation Report.** After each person has had the opportunity to comment on their own statement and to identify witnesses and other potential information, and the investigator has completed witness interviews and the gathering of evidence, the investigator will prepare a preliminary report. The preliminary report will include, as applicable, the Claimant's statement, Respondent's statement, each witness' statement and either a copy or written summary of any other relevant information collected during the investigation. The preliminary report will not contain any findings.

The Claimant and Respondent may review the preliminary report and provide feedback in response. The Claimant and Respondent must submit any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigator within five (5) calendar days after it is sent to them for review. The Title IX Coordinator or designee may, in their discretion, impose strict page limits on the feedback the parties can provide the investigator.

In the event that new, relevant information is provided or identified by one of the parties, the information will be incorporated into the preliminary report and the parties will be provided a second opportunity to review and provide feedback before the investigator proceeds with the final report.

16. **Final Investigation Report and Outcome of Investigation.** After receiving any comments submitted by either person, or after the five (5) calendar day comment period has lapsed without comment, the investigator will address any relevant issues identified by the Claimant and/or Respondent, as appropriate, pursue any additional investigative steps as needed, and make a determination, by a preponderance of the evidence, whether the Respondent has committed a violation of this Policy.

The investigator's final written report will contain all information from the preliminary report, as supplemented by the relevant feedback submitted; any additional information gathered; the investigator's findings; and a summary of the investigator's rationale in support of the findings.

The investigator's report and findings must be reviewed and approved by the Title IX Coordinator and reviewed by OGC before it is provided to each person. OSCR will provide the written notice of outcome of the investigation to the Claimant and Respondent simultaneously. The notice of outcome will include information about next steps, which may include the sanctioning process (in the event that there is sufficient evidence to support a Policy violation), or the appeal process (in the event that there is insufficient evidence to support a Policy violation).

If a Claimant has chosen not to participate in the investigation but requests to be notified of the outcome, the University will notify the Claimant. If a Claimant has requested not to be notified of the outcome, the University will honor that decision. In such cases, the University will not send the notification to the Claimant, but may proceed with any necessary follow-up, including as described below, and may need to provide notification of that follow-up if appropriate.

17. **Finding(s) of Policy Violation.** When the investigator determines that there is *sufficient* evidence, by a preponderance of the evidence, to support a finding of a

Policy violation on one or more of the allegations, the Respondent will be sanctioned through the sanctions board as set forth below (Section XII(B)).

- 18. Finding(s) of No Policy Violation.** When the investigator determines that there is *insufficient* evidence, by a preponderance of the evidence, to support a finding of a Policy violation on one or more of the allegations, the Claimant may accept or appeal the finding by notifying OSCR in writing within seven (7) calendar days of the notice of outcome. If the Claimant accepts the finding of no Policy violation, the investigation will be closed. If the Claimant appeals one or more of the findings, further proceedings as set forth below (Section XII(C)) will follow.

B. SANCTIONS

If the Respondent is found responsible for Prohibited Conduct (either because of a finding of a Policy violation that is not appealed, or after an appeal of no Policy violation that results in a Policy violation), the University will initiate a sanctioning process designed to eliminate the conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety and/or deter students from similar future behavior. Other remedies may include targeted or broad-based educational programming or training.

OSCR will facilitate the sanctioning process outlined in this Policy upon receipt of the Investigative Report. OSCR will convene the sanctioning board within seven (7) calendar days of receiving the notice of a Policy violation. Both the Claimant and the Respondent may offer brief written impact or mitigation statements within five (5) calendar days of receiving the notice of a Policy violation. The University will strive to complete the sanctioning process within fifteen (15) calendar days after the Claimant and Respondent are notified of the investigation outcome.

1. Sanctioning Board

An impartial sanctioning board will typically be comprised of one student chosen by Central Student Government, one staff or faculty member chosen by the Vice President for Student Life (VPSL), and one staff or faculty member chosen by the President. The sanctioning board will receive annual training regarding the University's policies and procedures, the handling of student sexual misconduct cases, and other relevant issues.

The sanctioning board will meet weekly at a regularly scheduled time in order to promptly review any pending matters and impose sanctions. The sanctioning board will review the written final investigation report, electronic case notes, any additional information from OSCR regarding previous conduct committed by the Respondent, and any impact statement or mitigation statement provided to the staff member by the parties. The sanctioning board may also request from OSCR information on sanctions levied in previous, similar student sexual misconduct matters. They may also consult with the Title IX Coordinator as necessary. The sanctioning board will render a written sanctioning determination within two (2) calendar days of its weekly meeting.

Claimant or Respondent's decision whether to provide an impact or mitigation statement is completely voluntary. The sanctioning board may use information from these statements to help determine the Respondent's sanction. An impact statement is written information from the Claimant describing the impact of the Prohibited Conduct on the Claimant and expressing the Claimant's preferences regarding appropriate sanctions. A mitigation statement is a written statement from the Respondent explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions imposed.

The impact or mitigation statements may not exceed five (5) pages, including attachments. The sanctioning board may use information from these statements to help determine the Respondent's sanction. OSCR, in consultation with the OGC, will review all information submitted in an impact statement or mitigating statement for relevance and appropriateness and may determine that some or all of the information submitted cannot be provided to the sanctioning board.

2. Factors Considered in Sanctioning

In determining the appropriate sanctions, the sanctioning board will be guided by a number of considerations, including:

- The nature of the conduct at issue;
- The impact of the conduct on the Claimant;
- The impact of the conduct on the community or the University;
- Prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere, and any criminal convictions, if such information is available and known;
- Whether the Respondent has accepted responsibility for the conduct, which may be considered as a factor that may lessen, not increase, the severity of the sanctions;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community;
- The necessity of any specific action in order to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects on the Claimant or other University community members; and
- Any other mitigating, aggravating, or compelling circumstances, including those set forth in the impact or mitigation statements, to reach a just and appropriate resolution in each case.

3. Possible Sanctions or Interventions

The list of potential sanctions or interventions includes one or more of the following:

- **Disciplinary Probation:** A designated period of time during which the student is not in good standing with the University. The terms of disciplinary probation may involve restrictions of student privileges and/or set specific behavioral expectations;
- **Restitution:** Reasonable and limited compensation for loss, damage, or injury to the appropriate party in the form of money or material replacement;
- **Restriction from Employment at the University:** Prohibition of or limitation on University employment;
- **Class/Workshop/Training/Program Attendance:** Enrollment in and completion of a class, workshop, training, or program that could help the student or the University community;
- **Educational Project:** Completion of a project specifically designed to help the student understand why certain behavior was inappropriate and to prevent its recurrence;
- **University Housing Transfer or Removal:** Placement in another room or housing unit or removal from University housing. Housing transfers or removals may be temporary or permanent depending on the circumstances;
- **Removal from Specific Courses or Activities:** Suspension or transfer from courses or activities at the University for a specified period of time;
- **No Contact:** Restriction from entering specific University areas and/or from all forms of contact with certain persons;
- **Suspension:** Separation from the University for a specified period of time or until certain conditions are met;
- **Expulsion:** Termination of student status for an indefinite period;
- **Transcript notation, hold, and/or notification to other institutions:** A notation of non-academic disciplinary action may be made on a transcript and/or the University may notify other institutions of non-academic disciplinary action. In addition, the University may place a hold on transcripts, meaning that the University may prevent a student from registering for classes, receiving a copy of their transcript, or both; or
- **Withholding, delaying, or revoking the conferral of the degree:** The University may delay the conferral of the degree pending the outcome of an investigation or

withhold the conferral of the degree due to a finding of Prohibited Conduct. In extraordinary circumstances, the University may revoke the conferral of the degree.

Student-employees who are reported to have engaged in Prohibited Conduct in their employment capacity will continue to be subject to review under the [University's Sexual Harassment Policy](#) (SPG 201.89-0) rather than under this Policy. If a student-employee is found to have engaged in Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment and in connection with their student status (as listed here), as appropriate under applicable processes.

4. Written Notice of Sanction

OSCR will provide the written notice of the sanction to the Claimant and Respondent simultaneously. The notice will include the sanction, a summary of the sanctioning board's rationale in support of the sanction, and the appeal process. The sanction must be reviewed and approved by the Title IX Coordinator and reviewed for legal sufficiency by OGC before it is provided to each person.

C. APPEALS OF FINDINGS OR SANCTIONS

Both a Claimant and Respondent may appeal the investigator's finding or may appeal the sanctions determined by the sanctioning board. The appeal will be conducted in an impartial manner and equivalent rights will be provided to both parties throughout the process.

A Claimant may appeal the investigator's finding that there is insufficient evidence to support a Policy violation within seven (7) calendar days of the date of the written notice of investigation outcome.

A Respondent may appeal the investigator's finding that there is sufficient evidence to support a Policy violation within seven (7) calendar days of the date of the written notice of sanction.

Either party may appeal the sanction imposed by the sanctioning board within seven (7) calendar days of the date of the written notice of sanction.

To appeal the finding or the sanctions, a party must submit a written request to OSCR within seven (7) calendar days of the date of the notice of outcome or sanctions, whichever is relevant. OSCR may deem a late submission reasonable only under extraordinary or extenuating circumstances. The appeal shall consist of a plain, concise, and complete written statement outlining the basis for appeal and all relevant information to substantiate the claim. OSCR may, in its discretion, impose page limits for all written appeal statements.

Each party will be given the opportunity to review and respond in writing to the other party's appeal. Any response by the opposing party must be submitted to OSCR within seven (7) calendar days. All appeal documents from each party will be considered together in one review process.

1. Grounds for Appeals

Claimant or Respondent may appeal on one or more of the following grounds for the finding:

- A material deviation from the procedures affected the outcome of the case;
- There is new and relevant information that was unavailable, with reasonable diligence and effort, at the time of the investigation that could reasonably affect the investigation findings; or
- A review of all available and relevant information indicates that the evidence clearly does not support the finding(s) and provides firm and definite support for modifying the original finding(s).

Claimant or Respondent may appeal the sanction on the following ground:

- The sanction was clearly inappropriate and/or disproportionate to the conduct for which the person was found responsible.

2. External Reviewer Will Conduct Appeal Review

The appeal review will be conducted by an external reviewer. The external reviewer will be a neutral party, most often an attorney outside of the University with significant legal experience, knowledge, and judgment. The external reviewer will be chosen by OGC in consultation with VPSL. The external reviewer will receive annual training regarding the University's policies and procedures, the handling of student sexual misconduct cases, and other relevant issues. The external reviewer must also be impartial and free from bias or conflict of interest.

The external reviewer will review the matter based on the issues identified in the appeal(s) materials. The external reviewer may, at any time, freely consult with the Title IX Coordinator and OGC and other University administrators as necessary. The external reviewer has the authority to determine the appropriateness of evidence, including whether certain evidence should be considered, and the strength and value that evidence will be given. In deciding the appeal of the finding or the sanction, the external reviewer will consider the final investigation report and any written submissions by the parties outlining any basis for altering the finding, any electronic case notes, the determination of the sanctioning board, and any impact or mitigation statements. The external reviewer can request additional information from the Title IX Coordinator.

3. Decision of External Reviewer

The external reviewer may conclude that there are no relevant issues of concern and therefore recommend that the investigator's finding or the sanctioning board's determination be affirmed. In the alternative, the external reviewer may identify issues of concern; if so, in the case of the findings, the external reviewer will provide, in writing, to the Title IX Coordinator one of the

following recommended actions and any additional instructions or recommendations it deems appropriate under the circumstances:

- If there was a material deviation from procedure, remand the matter to the Title IX Coordinator and/or a new investigator with corrective instructions from the external reviewer;
- If new information appears relevant, refer the matter to the Title IX Coordinator, and the original investigator, if available, to determine whether any modifications may need to be made to the original investigative report; or
- If the evidence clearly does not support the finding(s) of a Policy violation and provides firm and definite support for modification, the external reviewer may make any necessary modifications to the report.

If the external reviewer determines the sanctions to be clearly inappropriate or disproportionate, they will alter the sanctions or interventions accordingly. In the event that the external reviewer makes any determination that ultimately results in a finding of a Policy violation when the investigator had initially made a finding of no Policy violation, the case will be sent to the sanctioning board for a determination of sanctions. The sanctions can then be the subject of a second appeal on the sanction only.

The external reviewer will strive to complete the appeal review within seven (7) calendar days of receipt of all documents.

The external reviewer will provide these determinations to the VPSL or their designee who may accept or modify the determinations made by the external reviewer within seventy-two (72) hours of receiving the external reviewer's decision. If the VPSL or their designee does not complete the review within seventy-two (72) hours, the review will be waived and the external reviewer's determination will be deemed final. The VPSL'S final and unreviewable decision will be made available to the participating parties, in writing, simultaneously, by OSCR.

XIII. ALTERNATIVE RESOLUTION

Alternative resolution is a voluntary, structured interaction between or among affected parties that is designed to allow a Respondent to accept responsibility for misconduct and acknowledge harm to the Claimant or to the University community. The University recognizes that alternative resolution options may, if implemented in concert with institutional values and legal obligations, be an appropriate means of addressing some forms of Prohibited Conduct reported under this Policy. Alternative resolution options are designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the Claimant and the safety and welfare of the campus community.

A. CIRCUMSTANCES IN WHICH ALTERNATIVE RESOLUTION MAY BE USED

Alternative resolution is not appropriate for all forms of conduct under the Policy and the Title IX Coordinator retains the discretion to determine which cases are appropriate for alternative resolution.

In some forms of alternative resolution, the remedies imposed will focus on supporting the Claimant with no participation or involvement by the Respondent. In other forms of alternative resolution, the Respondent may agree to participate. Depending on the type of remedy used, it may be possible for a Claimant to maintain anonymity.

Alternative resolution may also include restorative principles that are designed to allow a Respondent to accept responsibility for misconduct and acknowledge harm to the Claimant or to the University community. Restorative models will be used only with the consent of both parties, under the supervision of University-sanctioned, trained professionals, and following a determination by the University that the matter at hand is appropriate for a restorative approach.

The Alternative resolution options available under this Policy recognize:

- Participation is voluntary and both a Claimant and Respondent can request to end this manner of resolution and pursue an investigation at any time;
- The University will not compel a Claimant to engage in mediation, to directly confront the Respondent, or to participate in any particular form of alternative resolution;
- Mediation, even if voluntary, will not be used in cases involving sexual assault;
- Prohibited Conduct affects Claimants, Respondents, witnesses, friends, community members, family members, and others (collectively Affected Persons);
- Affected Persons within the community often benefit when resolution processes and outcomes are tailored to meet their unique needs and interests;
- In cases that do not involve sexual assault, Claimants and other Affected Persons may find it useful to meet with a Respondent who acknowledges the substance of the underlying events and who acknowledges that Claimants or other Affected Persons have reported experiencing harm as a result;
- Structured interactions between Affected Parties can facilitate long-term healing and reduce recidivism; and

- Participants in alternative resolution processes must be protected from secondary victimization and other potential harms, including the pressure to proceed through alternative resolution instead of formal resolution.

B. ALTERNATIVE RESOLUTION OPTIONS

With approval from the Title IX Coordinator, alternative resolution options may be used during any of the following phases of the resolution process:

- The assessment phase: as a means of addressing the reported or admitted conduct, preventing its recurrence, and remedying its effects absent a formal finding of policy violation;
- The sanctioning phase: as a means of creating appropriate sanctions or interventions after a finding of responsibility; or
- The reintegration phase: as a means of reintegrating the Respondent into the University community after a period of separation and addressing any lingering community concerns.

The following conditions must be satisfied for an alternative resolution process to be initiated:

- The Title IX Coordinator must have reviewed the matter to the extent necessary to confirm that it is of the type that would be appropriate for an alternative resolution process and must have concluded, in consultation with appropriate University employees, that use of an alternative resolution process was without pressure or compulsion from others and the parties were advised that they may withdraw from the process at any time; and
- Individuals who wish to participate in an alternative resolution process must have successfully completed preparatory meetings with an appropriate staff member(s).

Individuals may be accompanied by an adviser at any meetings related to the alternative resolution process. Information shared or obtained during alternative resolution will be treated as private to the extent permitted by law and will not result in subsequent disciplinary actions by the University, unless additional action is deemed necessary to fulfill the University's legal obligations.

C. ALTERNATIVE RESOLUTION AGREEMENTS

Any agreements reached in alternative resolution must be documented and approved by the Title IX Coordinator to ensure consistency with the University's Title IX obligations. If the Title IX Coordinator approves an agreement after the parties have voluntarily reached consensus as to its terms, the Respondent will be required to comply with the agreement. Failure to comply with the agreement may result in a violation of the Statement of Student Rights and Responsibilities. If no agreement is reached, the matter may be referred to the Title IX Coordinator for further action.

To fairly assess pattern or systemic behavior, the Title IX Coordinator will maintain records of all reports and conduct referred for alternative resolution. The time frame for completion of alternative resolution may vary, but the University will seek to initiate action within thirty (30) calendar days of the initial assessment.

XIV. ALTERNATIVE INTERVENTIONS OR REMEDIES FOR THE UNIVERSITY COMMUNITY

In addition to the sanctions/interventions applied to the Respondent, and regardless of whether the University pursues an investigation or takes other formal disciplinary action, the Title IX Coordinator may find it helpful or necessary to request or require the Respondent or others to undertake specific steps designed to eliminate the misconduct, prevent its recurrence, and/or remedy its effects. Examples include, but are not limited to, the following:

- Requesting or requiring a University entity to provide training for its staff or members;
- Continuing any of the protective and supportive measures previously established;
- Identifying the need for any additional or ongoing measures, supports and remedies; or
- Revising University policies, practices, or services.

XV. RECORDS RETENTION

The University shall retain all records relating to a report of Prohibited Conduct for a period of seven years (7) after the date the report was received and the University shall retain all such records indefinitely in cases in which the Respondent was found to have violated the Policy and was expelled.

XVI. POLICY REVIEW

This Policy is maintained by the OIE, Student Life, and the Vice President and Office of the General Counsel. The University will review and update this Policy, as appropriate, each year. The University will evaluate, among other things, any changes in legal requirements, existing University resources, and the resolution of cases from the preceding year.

XVII. ANNUAL REPORT

The Title IX Coordinator will issue an [Annual Report](#) to the University of Michigan community about actions taken by the University in response to reports of Prohibited Conduct by students. The report will inform the community of response efforts and engage the community in education and prevention initiatives. Reports of past actions will provide an overview of

information, with removal of confidential details to the extent necessary to respect the privacy of involved parties.