



Standard Practice Guide Policies

Policy on Sexual and Gender-Based Misconduct

601.89

Applies to: All faculty, regular and temporary staff, students, contractors, vendors, volunteers, visitors, and guests

I. POLICY STATEMENT

The University of Michigan, comprised of the Ann Arbor campus, the University of Michigan-Dearborn, the University of Michigan-Flint, and Michigan Medicine (collectively the "University"), is committed to creating and maintaining a safe and non-discriminatory campus community that is free from Sexual and Gender-Based Misconduct and that enables individuals engaged in its PROGRAMS OR ACTIVITIES to participate fully in the scholarly, research, educational, patient care, and service missions of the University. The University does not discriminate on the basis of sex or gender in any of its PROGRAMS OR ACTIVITIES.

The University of Michigan *Policy on Sexual and Gender-Based Misconduct* (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf) ("Policy") prohibits the following types of conduct as defined in Policy Section XI (https://sexualmisconduct.umich.edu/policy/') (also referred to collectively as "PROHIBITED CONDUCT"):

- A. Sexual and Gender-Based Misconduct (i.e., Sexual Assault; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Sex and/or Gender-Based Stalking; Intimate Partner Violence; Sex and Gender-Based Discrimination; Retaliation and Violation of Supportive Measures); and
- B. Title IX Misconduct (i.e., *Quid Pro Quo* Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; Intimate Partner Violence and Sex and Genderbased Stalking; as defined by and within the scope of Title IX).

PROHIBITED CONDUCT undermines the character and purpose of the University and the University will take appropriate prompt and effective action to eliminate PROHIBITED CONDUCT, prevent its recurrence, and remedy its effects. PROHIBITED CONDUCT may also constitute crimes that violate federal and state law.

The University adopts the Policy 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 possible PROHIBITED CONDUCT; (3) providing a fair and impartial process -- including constitutionally required due process where applicable -- for all parties; and (4)

identifying the procedures by which violations of the Policy will be evaluated. EMPLOYEES, STUDENTS, or THIRD PARTIES (as defined in Section II below) who violate the Policy may face, as appropriate, disciplinary action up to and including termination, expulsion, or other actions.

It is the responsibility of every member of the UNIVERSITY COMMUNITY to foster an environment free of PROHIBITED CONDUCT. All members of the UNIVERSITY COMMUNITY are encouraged to take reasonable and prudent actions to prevent or stop such behavior.

II. POLICY DEFINITIONS

For purposes of this SPG, the Policy, the Student Procedures, and the Employee Procedures, some key terms are defined below. Additional terms are defined within the text of the Policy, Student Procedures, and Employee Procedures¹:

- A. Adaptable Resolution Coordinator: The Adaptable Resolution options will be facilitated by a trained Adaptable Resolution Coordinator within the Office of Student Conflict Resolution ("OSCR"). The Adaptable Resolution Coordinator typically will be someone other than the OSCR Director or Associate Director. The Adaptable Resolution Coordinator assigned to each case has a role focused on understanding and meeting the expressed needs of all involved parties and will be free from bias and conflict of interest.
- B. **ADVISOR**: An ADVISOR is an individual chosen by a party to provide support and guidance to them during the process. An ADVISOR may be an attorney. An ADVISOR is separate from an EQUITY SPECIALIST, who may be working with the parties throughout the process. An ADVISOR may not represent or otherwise speak for the party they are supporting, except when a Hearing occurs as part of the Title IX Misconduct process, when the ADVISOR may ask the other party and WITNESSES relevant questions. If a party does not have an ADVISOR available at the Hearing, the University will provide an ADVISOR to ask questions on behalf of that party (see, e.g., Section VIII (B)(7)(b) of the Employee Procedures (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/employee-procedures.pdf)).
- C. **COMPLAINANT**: COMPLAINANT is used to refer to a STUDENTS, EMPLOYEE, or THIRD PARTIES who is reported to have experienced PROHIBITED CONDUCT. A COMPLAINANT also typically participates in a process undertaken by the University to address the report of PROHIBITED CONDUCT. In some instances, the person who is reported to have experienced PROHIBITED CONDUCT may not wish to participate in the process. In those cases, the University may pursue a resolution process under this Policy without a participating COMPLAINANT. COMPLAINANT will be used throughout the Policy and related procedures to refer generally to an individual who is reported to have experienced PROHIBITED CONDUCT, even if they do not participate in any related process.
- D. **CONFIDENTIAL AND NON-CONFIDENTIAL RESOURCES**: CONFIDENTIAL RESOURCES are available to provide individuals with assistance, support, and additional information and are prohibited from disclosing confidential information unless: (1) given permission 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 may be required to report non-identifying information to DPSS for crime reporting purposes.
 - NON-CONFIDENTIAL RESOURCES are available to provide individuals with assistance, support, and additional information, but may have broader obligations than CONFIDENTIAL RESOURCES to report information that is shared with them. NON-CONFIDENTIAL RESOURCES will make reasonable efforts to respect and safeguard the privacy of the individuals involved. Privacy means that

concerns about PROHIBITED CONDUCT will only be shared with University representatives, such as ECRT, responsible for assessment, investigation, or resolution of the report or otherwise properly responding to issues raised; to DPSS for crime statistics reporting; and to the extent required by law or court order.

- E. **DIVISION OF PUBLIC SAFETY AND SECURITY OR DPSS**: DIVISION OF PUBLIC SAFETY AND SECURITY OR DPSS refers collectively to the University of Michigan Police Department (UMPD), the University of Michigan-Dearborn Department of Public Safety (DPS), the University of Michigan-Flint Department of Public Safety (DPS), Michigan Medicine Security, Housing Security, and University Security Services.
- F. **EMPLOYEE**: EMPLOYEE means all faculty (i.e., regular instructional, supplemental instructional, research track, and visiting faculty), librarians, archivists, curators, graduate student instructors, graduate student staff assistants, graduate student research assistants, postdoctoral research fellows, and all regular and temporary staff.
- G. **EQUITY, CIVIL RIGHTS AND TITLE IX OFFICE**: EQUITY, CIVIL RIGHTS AND TITLE IX OFFICE or ECRT at Ann Arbor, Dearborn, and Flint are collectively referred to as ECRT in the Policy.
- H. **ECRT EXECUTIVE DIRECTOR OR DIRECTOR**: EQUITY, CIVIL RIGHTS AND TITLE IX OFFICE or ECRT EXECUTIVE DIRECTOR (in Ann Arbor) or DIRECTOR (in Flint and Dearborn) are responsible for overseeing the ECRT and its staff for Ann Arbor, including Michigan Medicine, Dearborn, and Flint. Under the Policy, the ECRT EXECUTIVE DIRECTOR in Ann Arbor reviews Appeals of dismissal of Title IX Misconduct allegations, and hears and addresses concerns of conflict of interest on the part of the TITLE IX COORDINATOR.
- I. **EQUITY SPECIALIST**: On the Ann Arbor campus, the EQUITY SPECIALIST is a role within ECRT that serves as a consistent point of contact and impartial resource for parties involved in reports under the Policy. The EQUITY SPECIALIST typically conducts outreach to a COMPLAINANT and reporter when a concern is reported to ECRT, and provides the COMPLAINANT with information about the availability of SUPPORTIVE MEASURES, resources, options, and other policy information. During a proceeding under the Procedures, the EQUITY SPECIALIST can assist all parties by providing process updates, referrals and connections to CONFIDENTIAL and NON-CONFIDENTIAL RESOURCES, and ongoing information about the Policy and Procedures. The EQUITY SPECIALIST does not have a decision-making role under the Procedures. On the Dearborn and Flint campuses, the assigned INVESTIGATOR performs these functions at intake and during any investigation, while an EQUITY SPECIALIST performs these functions if there is a Hearing.
- J. **EXTERNAL REVIEWER**: An EXTERNAL REVIEWER will conduct the Appeal review. The EXTERNAL REVIEWER will be a neutral party outside of the University. The EXTERNAL REVIEWER must be impartial and free from bias or conflict of interest. The EXTERNAL REVIEWER may conclude that there are no relevant issues of concern, and therefore, recommend that the Hearing outcome and/or the sanctioning determination be affirmed. In the alternative, the EXTERNAL REVIEWER may identify in writing issues of concern and recommended actions and additional instructions.
- K. **FORMAL COMPLAINT**: FORMAL COMPLAINT means a document signed by a COMPLAINANT or by the TITLE IX COORDINATOR containing the allegations that a RESPONDENT engaged in PROHIBITED CONDUCT and requesting initiation of the University's resolution processes.
- L. **HEARING OFFICER**: Hearings will be facilitated by a HEARING OFFICER, who will make the decision as to whether or not the RESPONDENT violated the Policy using a preponderance of the evidence

standard. The University will appoint a standing pool of trained HEARING OFFICERS. The HEARING OFFICER will be selected from the standing pool. All HEARING OFFICERS will receive training on issues related to Title IX Misconduct and Sexual and Gender-Based Misconduct; the scope of the University's education PROGRAMS OR ACTIVITIES; relevancy; on how to conduct a process that is fair and impartial, including information regarding Hearings, Appeals, and informal resolution processes, while avoiding prejudgment of the facts at issue; conflicts of interest; and bias.

- M. INDIVIDUALS WITH REPORTING OBLIGATIONS: INDIVIDUALS WITH REPORTING OBLIGATIONS or IROS are individuals who are required to share with ECRT information they receive about alleged PROHIBITED CONDUCT. INDIVIDUALS WITH REPORTING OBLIGATIONS are (1) University administrators and supervisors and (2) EMPLOYEES in certain designated positions and units or departments. A list of INDIVIDUALS WITH REPORTING OBLIGATIONS and more information about INDIVIDUALS WITH REPORTING OBLIGATIONS can be found in Policy Section VII (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf). As set forth in Policy Section VII (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf), some INDIVIDUALS WITH REPORTING OBLIGATIONS have the authority to institute corrective measures on behalf of the University and are required to report all information about PROHIBITED CONDUCT that they receive, regardless of how and when they learned of the information.
- N. **Investigator**: The Investigator is responsible for carrying out a fair and thorough investigation, review, consultation, or other response under the Procedures. When an investigative resolution is initiated, the Investigator is responsible for gathering evidence directly related to the allegations at issue. The Investigator must be impartial, free of any actual conflict of interest, and have specific and relevant training and experience. The Investigator is not an advocate for COMPLAINANT or RESPONDENT at any time during the process.
- O. **MEDIATOR**: MEDIATOR are neutral facilitators. MEDIATOR do not take sides, judge whether anyone is right or wrong, or decide how to resolve the problem. MEDIATOR facilitate the structured interaction between a COMPLAINANT and RESPONDENT to achieve a resolution satisfactory to both parties.
- P. **PATIENT**: PATIENT means a PATIENT of the University of Michigan Academic Medical Center as defined in Regents Bylaw 11.36 (https://regents.umich.edu/governance/bylaws/chapter-xi-the-schools-and-colleges-and-affiliated-units/).
- Q. **PROGRAM OR ACTIVITY**: A PROGRAM OR ACTIVITY includes: (1) any location, event, or circumstance where the University exercises substantial control over both the RESPONDENT and the context in which the conduct occurs; (2) any building owned or controlled by a Student Organization recognized by the University; and (3) a University campus. Conduct that occurs off campus in locations or at events with no connection to the University is unlikely to occur in a PROGRAM OR ACTIVITY of the University.
- R. **PROHIBITED CONDUCT**: PROHIBITED CONDUCT refers to Sexual and Gender-Based Misconduct (Sexual Assault; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Sex and/or Gender-Based Stalking; Intimate Partner Violence; Sex and Gender-Based Discrimination; Retaliation and Violation of Supportive Measures) and Title IX Misconduct (i.e., *Quid Pro Quo* Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault, and Intimate Partner Violence and Sex and Gender-based Stalking; as defined by and within the scope of Title IX). For a definition of each type of Prohibited Conduct, please refer to

- Policy Section XI (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf).
- S. **PROTECTED ACTIVITY**: PROTECTED ACTIVITY includes most elements of participation in the University's processes related to the Policy, including but not limited to reporting PROHIBITED CONDUCT; pursuing a resolution of PROHIBITED CONDUCT; providing evidence in any investigation or Hearing related to PROHIBITED CONDUCT; or intervening to protect others who may have experienced PROHIBITED CONDUCT. Retaliation against any person because of PROTECTED ACTIVITY is prohibited under the Policy, as discussed in Policy Section XI (B)(8) (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf).
- T. **REASONABLE PERSON**: REASONABLE PERSON means a person using average care, intelligence, and judgment in the known circumstances.
- U. **RESPONDENT**: RESPONDENT is an individual who is reported to have engaged in conduct that could constitute PROHIBITED CONDUCT.
- V. **STUDENT**: STUDENT generally means an individual who was admitted for enrollment in an academic PROGRAM OR ACTIVITY operated by the University, from the time they are admitted until either degree conferral or they are otherwise ineligible to register for courses without seeking readmission.
- W. **SUPPORT COORDINATOR**: On the Ann Arbor campus, the SUPPORT COORDINATOR is responsible for exploring, communicating, and implementing SUPPORTIVE MEASURES approved by the TITLE IX COORDINATOR. In addition, the SUPPORT COORDINATOR may conduct the same or similar tasks as the EQUITY SPECIALIST, described above. The SUPPORT COORDINATOR does not have a decision-making role under these Procedures. On the Dearborn and Flint campuses, the INVESTIGATOR, TITLE IX COORDINATOR, CONFIDENTIAL RESOURCE, or other office may explore, communicate or implement SUPPORTIVE MEASURES, as appropriate and as communicated to the parties.
- X. **SUPPORTIVE MEASURES**: SUPPORTIVE MEASURES are individualized services, accommodations, and other assistance that the University offers and may put in place, without fee or charge. SUPPORTIVE MEASURES are designed to restore or preserve equal access to the University's PROGRAMS AND ACTIVITIES, protect the safety of all parties and the University's educational environment, and/or deter PROHIBITED CONDUCT, without being punitive or disciplinary in nature or unreasonably burdening the other party.
- Y. **THIRD PARTIES**: THIRD PARTIES means all University regents, contractors, guests, vendors, visitors, volunteers, and any individual who is participating in a University PROGRAM OR ACTIVITY, but who, for purposes of alleged PROHIBITED CONDUCT, is neither enrolled in an academic program and/or course at the University nor acting as an EMPLOYEE (e.g., an individual who is participating in a summer camp; an individual who is attending a PROGRAM OR ACTIVITY by invitation or that is open to the public; or an individual who is not enrolled in an academic program and/or course at the University, but who is participating in a University study abroad program).
- Z. **TITLE IX COORDINATOR**: The TITLE IX COORDINATOR is the individual on each campus to whom reports of possible PROHIBITED CONDUCT are made. The TITLE IX COORDINATOR is responsible for oversight of responses to all reports of possible PROHIBITED CONDUCT under the Policy, including SUPPORTIVE MEASURES, resolution processes, and other University action taken in response to a report. The TITLE IX COORDINATOR is also responsible for ensuring compliance with Title IX, a

federal law prohibiting sex discrimination. Throughout the Policy and the related Procedures, TITLE IX COORDINATOR may also refer to a designee assigned by the TITLE IX COORDINATOR.

- AA. **University Community**: University Community refers to Board of Regents members, STUDENTS and EMPLOYEES.
- AB. **WITNESS**: A WITNESS is an individual who observed the acts in question or who has information relevant to a FORMAL COMPLAINT. A WITNESS whose identity is known will have the opportunity to discuss the investigation process, ask questions, and participate in an interview with the ECRT.

III. POLICY REGULATIONS AND REPORTING

The Policy (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf) applies to Students, Employees, and to the extent noted below, Third Parties, including Patients. The Policy covers two general types of Prohibited Conduct: (1) Sexual and Gender-Based Misconduct and (2) Title IX Misconduct, as described more fully in Section III of the Policy.

The University strongly encourages any individual to make a report of suspected PROHIBITED CONDUCT directly to ECRT through any of the reporting methods outlined below. Reports can also be made to INDIVIDUALS WITH REPORTING OBLIGATIONS listed in Section VII of the Policy (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf), but the University strongly encourages reporting directly to ECRT so that ECRT may promptly discuss the availability of SUPPORTIVE MEASURES and available processes with the COMPLAINANT, including by contacting the COMPLAINANT when another person makes the report.

To ensure objective investigations and decision-making, reports of PROHIBITED CONDUCT, whether Sexual and Gender-Based Misconduct or Title IX Misconduct, against any staff member of ECRT, or against certain staff members of ECRT's supervising office on each campus should be made to the Executive Vice President and Chief Financial Officer (EVP/CFO), or their designee. For Ann Arbor and Michigan Medicine, this includes reports of PROHIBITED CONDUCT regarding the President; the President's staff in the Office of the President (excluding Executive Officers); or an employee of ECRT. For Dearborn this includes reports of PROHIBITED CONDUCT regarding the Chancellor; the Chancellor's Chief of Staff; or an EMPLOYEE of ECRT. For Flint, this includes reports of PROHIBITED CONDUCT regarding the Chancellor or an EMPLOYEE of ECRT. Making a report means informing the EVP/CFO about the suspected PROHIBITED CONDUCT.

Recognizing that some forms of PROHIBITED CONDUCT may also constitute crimes, the University also strongly encourages any individual who experiences, witnesses, or learns of possible criminal conduct to report to DPSS or local law enforcement. Prompt reporting allows law enforcement to collect and preserve evidence.

The Policy provides information regarding how to make a report of any form of PROHIBITED CONDUCT to the University, how to file a FORMAL COMPLAINT, and how to report to DPSS (see, e.g., Policy Section VI (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf)). The Policy also covers reporting obligations for INDIVIDUALS WITH REPORTING OBLIGATIONS (see, e.g., Policy Section VII (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf)).

IV. APPLICABLE PROCEDURES UNDER THIS POLICY

The specific procedures for assessing, reviewing, and resolving PROHIBITED CONDUCT depend upon the nature of the RESPONDENT'S relationship to the University, and, when a RESPONDENT is an EMPLOYEE or a THIRD PARTY, on the type of PROHIBITED CONDUCT at issue (see, e.g., Policy Section IV

(https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf)).

V. RESOURCES

Supportive resources are available at the University. Some of these are designated as CONFIDENTIAL RESOURCES. Others provide support, but may need to involve ECRT and/or DPSS. Regardless of whether the University determines that PROHIBITED CONDUCT occurred, the University will offer resources or assistance to COMPLAINANTS, RESPONDENTS, WITNESSES, and other affected UNIVERSITY COMMUNITY members after receiving notice of alleged PROHIBITED CONDUCT. The University will also assist those individuals in identifying and contacting external law enforcement agencies and community resources.

The Policy provides an extensive description of CONFIDENTIAL AND NON-CONFIDENTIAL RESOURCES (see, e.g., Policy Section V (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf)). The Policy also provides information regarding SUPPORTIVE MEASURES (see, e.g., Policy Section IX (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/sgbm-policy.pdf)), which are individualized services, accommodations, and other assistance the University offers and may put in place, without fee or charge, and regardless of whether the matter is reported to the University for the purpose of initiating a proceeding under this Policy and before, after, and regardless of whether a FORMAL COMPLAINT is filed.

Additional information about these and other resources is contained in Our Community Matters Resource Guides:

- 1. Ann Arbor: Our Community Matters Resource Guide (https://www.dpss.umich.edu/docs/community-matters-brochure.pdf)
- 2. Dearborn: Our Community Matters Resource Guide (https://drive.google.com/file/d/16Cogt0tCty8R3vVYo4JpZuUwLKpqOqOk/view)
- 3. Flint: Our Community Matters Resource Guide (https://docs.google.com/document/d/1YBb2FTRbKbv4g3DJ7PPm3fE3KjBXQHfUpGcujD4gbjk/edit)

Notes

This update summarizes the final Policy, effective October 1, 2021, and replaces the Interim Policy, which went into effect August 14, 2020. For more information, please see the sexualmisconduct.umich.edu (https://sexualmisconduct.umich.edu/) website.

SPG Number: Applies To:

601.89 All faculty, regular and temporary staff, students,

contractors, vendors, volunteers, visitors, and guests

Date Issued:

August 17, 2020 Owner:

Office of the Provost and Executive Vice President for

Last Updated: Academic Affairs, Office of the Executive Vice President and

October 1, 2021

¹ Terms defined in Section II above are capitalized in the SPG, the Policy, and Procedures documents using SMALL CAPS. Other terms appearing in the SPG, Policy, and Procedures documents are capitalized using standard capitalization.

Next Review Date: Chief Financial Officer, Office of the Executive Vice President

October 1, 2026 for Medical Affairs

Primary Contact:

Equity, Civil Rights and Title IX Office

Related Policies:

Discipline (/policy/201.12)

Discrimination and Harassment (/policy/201.89-1)

Employee-Student Relationships (/policy/601.22-1)

Grievance Procedure and Dispute Resolution (/policy/201.08)

International Services, Programs and Responsibilities (/policy/402.01)

Non-Discrimination (/policy/201.35)

Preventing Discrimination Based on Sexual Orientation (/policy/601.06)

Professional Standards for Faculty (/policy/201.96)

Prohibitions Regarding Sexual, Romantic, Amorous, and/or Dating Relationships Between Teachers and Learners (/policy/601.22)

Responsible Use of Information Resources (/policy/601.07)

Violence in the University Community (/policy/601.18)

Related Links:

Employee and Third Party Procedures for Ann Arbor, Dearborn, and Flint campuses

(https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/employee-procedures.pdf)

Student Procedures for Ann Arbor campus (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/student-procedures-ann-arbor.pdf)

Student Procedures for Dearborn campus (https://sexualmisconduct.umich.edu/wp-content/uploads/2021/09/student-procedures-dearborn.pdf)

Student Procedures for Flint campus (https://sexualmisconduct.umich.edu/policy/)

Sexual Misconduct Reporting and Resources website (https://sexualmisconduct.umich.edu/)

U-M Ann Arbor Statement of Student Rights and Responsibilities (https://oscr.umich.edu/statement)

U-M Dearborn Student Rights & Code of Conduct (https://umdearborn.edu/about/policies-and-procedures/student-affairs-policies-and-procedures/student-rights-code-conduct)

U-M Flint Code of Student Conduct and Policies (https://www.umflint.edu/deanofstudents/)

Regent Bylaw 5.09 (https://regents.umich.edu/governance/bylaws/chapter-v-the-faculties-and-academic-staff/)

Faculty Grievance Procedures (https://hr.umich.edu/working-u-m/my-employment/academic-human-resources/faculty-grievance-procedures)

Compliance Hotline (https://compliance.umich.edu/)

Hard copies of this document are considered uncontrolled. If you have a printed version, please refer to the University SPG website (spg.umich.edu) for the official, most recent version.

© 2021 The Regents of the University of Michigan