

# Standard Practice Guide Policies

## Interim 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. INTERIM 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 that enables individuals engaged in its Programs or Activities (as defined in Section II of the Policy and Section II of the SPG below) 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 and Activities.

The University of Michigan Interim Policy on Sexual and Gender-Based Misconduct (“Policy (<https://sexualmisconduct.umich.edu/wp-content/uploads/2020/08/policy-on-sexual-gender-based-misconduct-08-07-20.pdf>)”) prohibits the following types of conduct as defined in Section XI of the 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; and Sex-Based Intimate Partner Violence and 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 this 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 Prohibited Conduct; (3) providing a fair and impartial process for all parties; and (4) identifying the procedures by which violations of this Policy will be evaluated. Employees, Students, or Third Parties (as defined in Section II of the Policy and Section II of the SPG below) who violate this 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 and the Policy, the following terms apply<sup>1</sup>:

- A. **Complainant:** “Complainant” is used to refer to a Student, Employee, or Third Party who is reported to have experienced Prohibited Conduct and who 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 an investigation and adjudication under this Policy without a participating Complainant. For ease of reference, “Complainant” will also be used throughout this 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.
- B. **Confidential and Non-Confidential Resources:** “Confidential Resources” are Employees who are available to provide individuals with assistance, support, and additional information and who 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 Employees who are available to provide individuals with assistance, support, and additional information, but who are not designated as confidential and may have broader obligations 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 OIE, 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.

- C. **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 Police and Public Safety (“DPPS”), the University of Michigan-Flint Department of Public Safety (“DPS”), Michigan Medicine Security, Housing Security, and University Security Services.
- D. **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.
- E. **Formal Complaint:** “Formal Complaint” means a document signed by a Complainant or by the Title IX Coordinator alleging that a Respondent engaged in Prohibited Conduct and requesting initiation of the University’s resolution processes.
- F. **Individuals with Reporting Obligations:** “Individuals with Reporting Obligations” or “IROs” are individuals who are required to report to OIE information 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 Section VII of the Policy. As set forth in Section VII of the Policy, 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.
- G. **Office for Institutional Equity:** “Office for Institutional Equity” or “OIE” at Ann Arbor, Dearborn, and Flint are collectively referred to as “OIE” in this Policy.
- H. **Patient:** “Patient” means a Patient of the University of Michigan Academic Medical Center as defined in Regents Bylaw 11.36.
- I. **Program or Activity:** A University “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.
- J. **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 Sex-Based Intimate Partner Violence and Stalking; as defined by and within the scope of Title IX). For a definition of each type of Prohibited Conduct, please refer to Section XI of the Policy.

- K. **Protected Activity:** “Protected Activity” includes most elements of participation in the University’s processes related to this Policy, including but not limited to reporting Prohibited Conduct; pursuing a resolution of Prohibited Conduct; providing evidence in any investigation or hearing; or intervening to protect others who may have suffered Prohibited Conduct. Retaliation against any person because of Protected Activity is prohibited under this Policy, as discussed in Section XI (B)(8) of the Policy.
- L. **Reasonable Person:** “Reasonable Person” means a person using average care, intelligence, and judgment in the known circumstances.
- M. **Respondent:** “Respondent” is an individual who is reported to have engaged in conduct that could constitute Prohibited Conduct.
- N. **Student:** “Student” generally means an individual who was selected “for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education Program or Activity operated by the University.” An individual is a Student from the time they first register for classes or attend on-campus Student orientation until degree conferral, or they are otherwise ineligible to register for courses without seeking readmission. For purposes of Title IX Misconduct as defined in Section XI (C)(1) of the Policy.
- O. **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.
- P. **Third Party:** “Third Party” means all University 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).
- Q. **University Community:** “University Community” refers to University Students and Employees.

### III. POLICY REGULATIONS AND REPORTING

The Policy applies to Students, Employees, and to the extent noted below, Third Parties, including Patients. The Policy covers two general types of Prohibited Conduct: Sexual and Gender-Based Misconduct and Title IX Misconduct, as described more fully in Section III of the Policy.

The University strongly encourages any individual – regardless of whether they are an

Individual with a Reporting Obligation – to make a report of suspected Prohibited Conduct directly to OIE through any of the reporting methods outlined in Section VI of the Policy. Reports can also be made to the University officials listed in Section VII of the Policy, but the University strongly encourages reporting to OIE so that OIE may promptly discuss the availability of Supportive Measures (see, e.g., Section IX of the Policy) and available processes with the Complainant (see, e.g., Section IV of the Policy), including by contacting the Complainant when another person makes the report.

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 to the University of suspected Prohibited Conduct (see, e.g., Section VI of the Policy) and reporting information for Individuals with Reporting Obligations (see, e.g., Section VII of the Policy).

#### **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., Section IV of the Policy).

#### **V. RESOURCES**

Supportive resources are available at the University. Some of these resources are designated as confidential. Other resources provide support, but may need to involve OIE 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., Section V of the Policy). The Policy also provides information regarding Supportive Measures (See, e.g., Section IX of the Policy), which are those services, accommodations, and other assistance the University may put in place 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 resources and interim measures 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?usp=sharing)

3. Flint: Our Community Matters Resource Guide ([https://www.umflint.edu/sites/default/files/groups/Public\\_Safety/Programs/VAWA/our.community.matters-2017-12.pdf](https://www.umflint.edu/sites/default/files/groups/Public_Safety/Programs/VAWA/our.community.matters-2017-12.pdf))

<sup>1</sup> These Terms are capitalized in the text of the SPG and the Policy. Other terms are defined within the Policy.

## Notes

Published before August 14, 2020 effective date. Until August 14, 2020, please refer to SPG 201.89-0. For more information, please see the [sexualmisconduct.umich.edu](http://sexualmisconduct.umich.edu) (<http://sexualmisconduct.umich.edu/>) website.

## File Attachments

Printable PDF of SPG 601.89, Interim Policy on Sexual and Gender-Based Misconduct (August 2020) ([https://spg.umich.edu/sites/default/files/policies/601x89\\_0.pdf](https://spg.umich.edu/sites/default/files/policies/601x89_0.pdf))

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**Applies To:**

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

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**Primary Contact:**

Office for Institutional Equity

**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>)

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:**

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/rights-and-responsibilities>)

Regent Bylaw 5.09 (<http://www.regents.umich.edu/bylaws/bylaws05a.html>)

Regent Bylaw 14.06 (<http://regents.umich.edu/bylaws/bylaws14.html>)

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

Compliance Hotline (<https://compliance.umich.edu/report-a-concern/>)

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