

Cover Page

**Umbrella Policy
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Draft as of October 4, 2019**

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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 both sexual and gender-based misconduct and that enables individuals engaged in University 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 education or employment programs and activities.

The University of Michigan Policy on Sexual and Gender-Based Misconduct (Policy) prohibits the following types of conduct as defined in [Section VIII](#) (also referred to collectively as Prohibited Conduct or Sexual and Gender-Based Misconduct):

- Sexual Assault;
- Sexual Exploitation;
- Sexual Harassment;
- Gender-Based Harassment;
- Sexual and/or Gender-Based Stalking;
- Intimate Partner Violence;
- Sex and Gender-Based Discrimination;
- Retaliation; and
- Violation of Protective Measures.

Prohibited Conduct undermines the character and purpose of the University and the University will take 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 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 Sexual and Gender-Based Misconduct. All members of the University Community are encouraged to take reasonable and prudent actions to prevent or stop such behavior.

The Policy sets forth how the University will proceed once it is made aware of possible Prohibited Conduct. The Policy is in keeping with our institutional values and is intended to meet our obligations under Title VII of the Civil Rights Act of 1964 (Title VII); 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 and regulations.

II. POLICY DEFINITIONS

For purposes of this Policy, some terms you will see repeatedly and/or key terms are defined below. Additional terms are defined within the text of the Policy.

- A. Prohibited Conduct or Sexual and Gender-Based Misconduct:** As referred to in [Section I](#), “Prohibited Conduct” or “Sexual and Gender-Based Misconduct” includes Sexual Assault; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Sexual and/or Gender-Based Stalking; Intimate Partner Violence; Sex and Gender-Based Discrimination; Retaliation; and Violation of Protective Measures. For a definition of each type of Prohibited Conduct, please refer to [Section VIII](#) below.
- B. Student:** "Student" means an individual enrolled in an academic program and/or course. 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.
- C. Employee:** “Employee” means all regular instructional faculty, supplemental instructional faculty, research track faculty, 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.
- D. 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 is not enrolled in an academic program and/or course (e.g., an individual who is participating in a summer camp; an individual who is attending a University 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).
- E. Complainant:** “Complainant” is generally used to refer to an individual who is reported to have experienced Prohibited Conduct and participates in a process undertaken by the University to address the report of Prohibited Conduct. In some instances, the person who experienced the alleged 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” is 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.

- F. Respondent:** “Respondent” is an individual who is reported to have committed Prohibited Conduct.
- G. Office for Institutional Equity or the Institutional Equity Specialist:** “Office for Institutional Equity” or “OIE” at Ann Arbor and Dearborn and the “Institutional Equity Specialist” or “IES” at Flint are collectively referred to as OIE in this Policy.
- H. Division of Public Safety and Security:** “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.
- I. Responsible Employees:** “Responsible Employees” refers to individuals who, based on their role with respect to the University, are required to report to [OIE](#) information about alleged Prohibited Conduct. Responsible Employees are (1) University administrators and supervisors; and (2) Employees in certain designated positions and units or departments. Responsible Employees are required to promptly share with OIE on their campus all details they receive in the scope of their employment about Prohibited Conduct. A full list of Responsible Employees and more information about a Responsible Employee’s obligations can be found in [Section VI \(B\)](#).
- J. University Community:** “University Community” refers to University Students and Employees.
- K. Reasonable Person:** “Reasonable Person” means a person using average care, intelligence, and judgment in the circumstances at issue.

III. POLICY SCOPE AND APPLICABILITY

This Policy applies to Students, Employees, and Third Parties. This Policy covers acts of Prohibited Conduct committed by or against Students, Employees, and Third Parties when the Prohibited Conduct occurs:

- On University campus or other property owned or controlled by the University;
- In the context of University employment or a University program or activity (including an online program or activity), including, but not limited to, University-sponsored study abroad, research, or internship programs; or
- Conduct that is off-campus or online and outside the context of University employment or a University program or activity, but poses a serious threat of harm, has a continuing adverse effect on, or creates a hostile environment for Students,

Employees, or Third Parties while on University campus or other property owned or controlled by the University or in any University program or activity. In determining whether the University has jurisdiction over off-campus or online conduct that is not part of a University program or activity of the University, the University will consider the severity of the alleged conduct, the risk of on-going harm, whether both parties are members of the University Community, impact on University programs or activities, and whether off-campus conduct is part of a series of actions that occurred both on and off campus.

This Policy supersedes any conflicting information in any other University policies with respect to the definitions or procedures relating to Prohibited Conduct.

IV. APPLICABLE PROCEDURES UNDER THIS POLICY

The specific procedures for assessing, reviewing and resolving Prohibited Conduct are based upon the nature of the Respondent's relationship to the University:

The Respondent is a Student:

The Procedures [LINK to the Table of Contents of the Procedures](#) for responding to complaints involving a Student as a Respondent apply.

The Respondent is an Employee:

The Procedures [LINK to the Table of Contents of the Procedures](#) for responding to complaints involving an Employee as a Respondent apply.

The Respondent is *both* a Student and an Employee:

OIE will determine which procedures apply based upon the facts and circumstances, such as whether the Respondent's status as a Student or an Employee predominates in the context of the Prohibited Conduct.

The Respondent is a Third Party:

The University's ability to take appropriate corrective action against a Third Party will be determined by the nature of the relationship of the Third Party to the University. OIE will determine the appropriate manner of resolution in accordance with the University's commitment to a prompt and equitable process and consistent with state and federal law, regulations, guidance, and this Policy.

When the University receives a report of behavior that could violate this Policy and other University policies, the University, in its discretion, will determine which policy/ies and procedures apply and whether action will be taken under multiple policies. A list of potentially related policies and procedures can be found in the [LINK to Standard Practice Guide \(SPG\)](#) [\[ADD\]](#).

V. CONFIDENTIAL AND NON-CONFIDENTIAL RESOURCES

There is a variety of supportive resources available at the University. Some of these resources are designated as confidential. Other resources provide support, but may need to involve the OIE and/or DPSS. Regardless of whether the University determines that Prohibited Conduct occurred, the University will offer resources or assistance to University Community members after receiving notice of alleged Prohibited Conduct. The University will also assist University Community members in identifying and contacting external law enforcement agencies and community resources.

A. **Confidential Resources**

Confidential Resources are employees who are available to provide individuals with assistance, support, and additional information. Confidential Resources 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.

Ann Arbor Campus including Michigan Medicine

Complainant Advocacy & Support:

- For students and employees: [Sexual Assault Prevention and Awareness Center \(SAPAC\)](#) provides direct support to Complainants, including crisis intervention; advocacy; assistance in navigating academic, personal, and community impact; and referrals to campus and community resources. (734) 764-7771, 24-hour crisis line - (734) 936-3333.

Counseling:

- For students: [Counseling and Psychological Services \(CAPS\)](#): (734) 764-8312 (includes 24 hour service)
- For student-athletes: [Athletic Counseling Team](#): (734) 647-9656
- For Central Campus faculty and staff: [Faculty and Staff Counseling and Consultation Office](#): (734) 936-8660
- For Michigan Medicine employees: [Office of Counseling and Workplace Resilience](#): (734) 763-5409

- For students and employees: [CEW+ Career and Educational Counseling](#): (734) 764-6005

Ombuds:

- For students: [University Ombuds](#): (734) 763-3545
- For faculty: [Faculty Ombuds](#): (734) 647-2339
- For staff: [Staff Ombuds](#): (734) 764-7272

University Health Service:

- For students: [Wolverine Wellness Medical and Health Educators](#): (734) 763-1320
- For students and employees: [Sexual Assault Services at the University Health Service \(UHS\)](#). UHS provides medical services for those who have experienced sexual assault: (734) 764-8320

Dearborn Campus

Counseling:

- For students: [Counseling and Psychological Services](#): (313) 593-5430
- For faculty and staff: [Faculty and Staff Counseling and Consultation Services](#): (734) 936-0600

Ombuds:

- For students: [Ombuds Services](#): (313) 593-5440
- For faculty: [Faculty Ombuds](#): (313) 593-5240

Flint Campus

Complainant Advocacy & Support:

- For students: [Center for Gender and Sexuality](#) (Only Select Staff are Confidential): (810) 237-6648

Counseling:

- For students: [Counseling and Psychological Services \(CAPS\)](#): (810) 762-3456

Ombuds:

- For faculty: [Faculty Ombuds Thomas Wrobel](#): (810)-762-0002 or twrobel@umich.edu

B. Non-Confidential Resources

Non-Confidential Resources are employees or offices who are available to provide individuals with assistance, support, and additional information, 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 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.

Ann Arbor Campus including Michigan Medicine

- For students: [The Dean of Students Office](#) (DOS) provides direct support to Complainants, 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 DOS and has dedicated trained staff, who provide direct support to Respondents who are involved in reports of Prohibited Conduct. (734) 764-7420.
- For faculty: [Academic Human Resources](#): (734) 763-8938
- For staff: [Staff Human Resources](#): (734) 763-2387
- For Michigan Medicine staff: [Michigan Medicine Human Resources](#): (734) 647-5538

Dearborn Campus

- For students: [Center for Social Justice and Inclusion](#): (313) 583-6445
- For faculty and staff: [Human Resources](#): (313) 593-5190

Flint Campus

- For students: [Office of the Ombuds](#): (810) 762-0002

- For faculty and staff: [Human Resources](#): (810) 762-3150

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

[Ann Arbor](#): [Our Community Matters Resource Guide](#)

[Dearborn](#): [Our Community Matters Resource Guide](#)

[Flint](#): [Our Community Matters Resource Guide](#)

VI. REPORTING

A. Reports to the University

Any individual, including the Complainant, the Students, the Employees, or the Third Parties may make a report. Set forth below is information regarding how to make a report to the University of suspected Prohibited Conduct, reporting information for individuals who are Responsible Employees, and reporting options and information for individuals who are not Responsible Employees.

1. The Office for Institutional Equity and Title IX Coordinator

Reports of Prohibited Conduct should be made to OIE. OIE addresses reports of conduct that may fall under this Policy. Making a report means informing OIE about the suspected Prohibited Conduct.

OIE, and specifically the Title IX Coordinator, is charged with monitoring compliance with federal and state law, including Title IX and Title VII, and ensuring appropriate actions to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. All other references in this Policy to actions that may be taken by the Title IX Coordinator may also be carried out by a designee of the Title IX Coordinator. Individuals may contact OIE to raise concerns about Prohibited Conduct, to ask about this Policy and related procedures, or to otherwise inquire about the University's Title IX and/or Title VII obligations.

The University process for addressing Prohibited Conduct is separate from the law enforcement process for addressing potential criminal behavior. However, making a report to OIE means that the report will be shared with others within the University, as appropriate. Upon learning of concerns of possible Prohibited Conduct that may be criminal in nature that have not already been reported to DPSS, OIE will submit a report to the appropriate DPSS department. 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 from OIE to DPSS contains

information known to the investigator at the time, including the parties' identities, a brief summary of the reported conduct, and whether the Complainant has and/or is willing to speak with law enforcement. The Complainant or others may be contacted by DPSS or another law enforcement agency to follow up on this information. If there are significant subsequent developments, OIE will update its report to DPSS.

OIE, including the Title IX Coordinator and Deputy Title IX Coordinator, can be contacted by telephone, email, or in person by appointment during regular office hours (Monday – Friday 8:00 a.m. – 5:00 p.m.):

Ann Arbor Campus

Elizabeth Seney, OIE Senior Associate Director & Title IX Coordinator

Jeffery Frumkin, Interim OIE Senior Director & 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)

Online reporting: <https://oie.umich.edu/discrimination-and-harassment-resolution-process/discrimination-discriminatory-harassment-and-sexual-misconduct-reporting-form/>

Dearborn Campus

Pamela Heatlie, Director, Office for Institutional Equity – Dearborn

InstitutionalEquityDearborn@umich.edu

Office for Institutional Equity
1114 Administration Building
4901 Evergreen Road
Dearborn, MI 48128
(313) 436-9194

Online reporting: umdearborn-advocate.symplicity.com/titleix_report/index.php/pid610342?

Flint Campus

Kirstie Stroble, Institutional Equity Specialist

umfinstitutionalequity@umflint.edu

Human Resources
213 University Pavilion
303 E. Kearsley Street
Flint, MI 48502
(810) 237-6517

Online reporting:
www.umflint.edu/hr/discrimination-discriminatory-harassment-and-sexual-misconduct-reporting-form

2. Responsible Employees – Reporting Information and Obligations

Responsible Employees are required to promptly share with OIE all details they receive in the scope of their employment about Prohibited Conduct. Responsible Employees can make a report by contacting OIE as set forth in [Section VI \(A\) \(1\)](#) above. Failure by a Responsible Employee to promptly share with OIE all details they receive in the scope of their employment about Prohibited Conduct may subject them to appropriate discipline, up to and including removal from their position.

The following are Responsible Employees:

- University administrators and supervisors; and
- Employees in certain designated positions and units or departments.

This means any person holding any of the roles or titles below in an interim or acting basis is also a Responsible Employee.

Administrators

- Board of Regents
- President
- Executive Officers/Chancellors (including those serving in vice, associate, and assistant roles)

- Deans (including those serving in vice, associate, and assistant roles)
- Department Chairs (including those serving in associate and assistant roles, graduate chairs, and undergraduate chairs)
- Directors (including those serving in associate and assistant roles)
- Supervisors (i.e., employees who have authority to hire, transfer, suspend, layoff, recall, promote, discharge, reward, or discipline other employees)

Student Life

- All staff members (including any individual, whether an employee or not, who serves as a coach of a club sports team), excluding clerical, custodial, maintenance, and dining employees.
- Resident Advisers in Housing and Residential Education

Athletics

- All staff members, excluding clerical, custodial, maintenance, and dining employees.

Office for Institutional Equity

- All staff members in the Ann Arbor Office for Institutional Equity and the Dearborn Office for Institutional Equity, as well as the Flint Institutional Equity Specialist.

Division of Public Safety and Security

- All staff members in the Division of Public Safety and Security, including the following departments:
 - University of Michigan Police Department
 - University of Michigan-Dearborn Department of Police and Public Safety
 - University of Michigan-Flint Department of Public Safety
 - Michigan Medicine Security
 - Housing Security
 - University Security Services

Other

- All human resource staff members (central/school/college/division/unit) who are responsible for handling employment issues, excluding clerical and transactional employees.
- All staff members and faculty members who provide oversight to or travel with Students on University-related travel abroad, including University-sponsored study abroad, research, fieldwork, or internship programs. Unless designated as a Responsible Employee in another role at the University, staff and faculty members who provide oversight to or travel with Students on University related travel abroad, are only considered Responsible Employees with respect to concerns they become aware of connected to the program with which they provide oversight or travel abroad with Students.
- Faculty and staff serving as identified advisers to student organizations required by their campus to have a named faculty or staff adviser. For Ann Arbor, this includes faculty and staff serving as identified advisers to Sponsored Student Organizations. For Dearborn, this includes faculty and staff serving as identified advisers to Sponsored Student Organizations and Registered Student Organizations. For Flint, this includes faculty and staff serving as identified advisers to Recognized Student Organizations. Unless designated as a Responsible Employee in another role at the University, staff and faculty members who serve as such advisers are only considered Responsible Employees with respect to concerns they become aware of connected to the student organization they advise.

Confidential Resources are not Responsible Employees.

If you are unsure of whether you are a Responsible Employee, please contact **OIE** in order to help clarify your role, responsibilities, and options.

3. Additional Information About Reporting to the University

The University strongly encourages individuals who are not Responsible Employees to promptly report possible Prohibited Conduct. As set forth above in **Section VI (A) (1)**, reports of Prohibited Conduct should be made to OIE at the relevant campus.

a. Anonymous Reports

An individual who is not a Responsible Employee may make a report of Prohibited Conduct to OIE at the relevant campus, and

if preferred, may do so without disclosing one's name using this online form at <https://sexualmisconduct.umich.edu/reporting-process/> or this online form at <https://hr.umich.edu/working-u-m/workplace-improvement/office-institutional-equity/discrimination-discriminatory-harassment-sexual-misconduct-reporting-form> or at the Compliance Hotline using this online form at <https://compliance.umich.edu/report-a-concern/> or calling (866) 990-0111.

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.

b. Time Frame for Reporting an Incident

The University strongly encourages individuals to report possible Prohibited Conduct promptly. In order to promote a timely and effective review and appropriate corrective action (when applicable), the University requests that individuals report possible Prohibited Conduct within 180 calendar days. Although the University does not limit the time frame for reporting Prohibited Conduct, a report made after 180 calendar days of the incident may make it more difficult to gather relevant and reliable evidence or to take corrective action.

If the Respondent is no longer a Student, Employee, or participant in any University program or activity at the time of the report, or if the conduct does not fall within the scope of the Policy, the University's ability to take action against the Respondent under the Policy may be limited. The University will, however, help a Complainant identify other options outside the University and provide support and resources. This might include reporting to law enforcement or reporting the conduct to another University.

c. 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 drug

use or underage alcohol consumption. To better ensure that individuals who may be at medical risk as a result of alcohol intoxication or drug consumption 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 or other drugs;
- Any minor who accompanies an individual who voluntarily accesses a health facility or agency for treatment or observation after consuming alcohol or other drugs; 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 other drugs; or consumption by others.

Similarly, the University will not pursue University misconduct charges against any Student in an investigation under this Policy for potential violations of 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.

B. Reports to Law Enforcement

Recognizing that some forms of Prohibited Conduct may also constitute crimes, the University also strongly encourages any individual who experiences or witnesses possible criminal conduct to report to DPSS or local law enforcement. UMPD has a dedicated unit for responding to and investigating sexual assaults, intimate partner violence, stalking, and child abuse. Prompt reporting allows law enforcement to collect and preserve evidence.

If an individual makes a report of Prohibited Conduct to DPSS that has not already been reported to OIE, DPSS will report the matter to OIE. The purpose of this report is to ensure that the University can take appropriate actions to

eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The initial report from DPSS to OIE will include all available information regarding the nature of the incident, as it was reported to DPSS. Information developed through the course of investigative efforts will be shared by DPSS with OIE as soon as it is reasonable to do so. The Complainant or others may be contacted by OIE to follow up on the information received from the University.

An individual who wishes to pursue criminal action in addition to the University process may contact law enforcement directly by calling:

- 911 (for emergencies)

Division of Public Safety and Security

- [University of Michigan Police Department, UMPD Special Victims Unit: \(734\) 763-1131](#)
- [University of Michigan-Dearborn Department of Police and Public Safety: \(313\) 593-5333](#)
- [University of Michigan-Flint Department of Public Safety: \(810\) 762-3322](#)
- [Michigan Medicine Security: \(734\) 936-7890](#)
- [Housing Security: \(734\)763-8391](#)
- [University Security Services: \(734\)763-8391](#)

Ann Arbor Local Law Enforcement

- [Ann Arbor Police Department: \(734\) 994-2911](#)
- [Ypsilanti Police Department: \(734\) 483-9510](#)
- [Washtenaw County Sheriff Department: \(734\) 971-8400](#)

Dearborn Local Law Enforcement

- [Dearborn Police Department: \(313\) 943-2241](#)
- [Wayne County Sheriff Department: \(313\) 224-2222](#)

Flint Local Law Enforcement

- [Flint Police Department](#): (810) 237-6800
- [Genesee County Sheriff Department](#): (810) 257-3407

VII. INTERIM MEASURES: SUPPORTIVE AND PROTECTIVE

Interim Measures are those services, accommodations, and other assistance the University may put in place after receiving notice of possible Prohibited Conduct. Interim Measures are implemented to provide for safety, well-being, and continued access to University programs and activities. Interim Measures may be supportive or protective in nature.

A. Supportive Measures

Supportive Measures usually have a direct impact only on the individual seeking support and may be requested by the Complainants, the Respondents, the witnesses, and other impacted members of the University Community. Supportive Measures are available regardless of whether the matter is reported to the University for the purpose of initiating a proceeding under this Policy.

Examples of Supportive Measures 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 on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- Work schedule or job assignment modifications (for University employment);
- Information about and/or assistance with obtaining personal protection orders; or
- A combination of any of these measures.

B. Protective Measures

Protective Measures, on the other hand, usually have a direct impact on another individual, such as the other party. For this reason, Protective Measures are available only when a proceeding is initiated under this Policy and the

Respondent is a Student, an Employee, or a Third Party who has an existing relationship with the University, such as participation in a University program or activity. Before a Protective Measure is implemented, the University conducts an individualized assessment, and, if appropriate, it implements Protective Measures designed to balance the protection of the parties with minimizing the impact on each individual's ability to access the University's program and activities.

Examples of Protective Measures include:

- No contact directives (to instruct an individual to stop all attempts at communication or other interaction with another individual);
- Limiting an individual's access to certain University facilities or activities;
- Academic schedule modifications (typically to separate Complainant and Respondent);
- Work schedule or job assignment modifications, including suspending employment with or without pay (for University positions);
- Placing a hold on transcripts, meaning that the University may prevent a Student from registering for classes or receiving a copy of their transcript or diploma;
- Withholding or delaying the conferral of a degree;
- Imposing an interim suspension; or
- A combination of any of these measures.

Failure to comply with Protective Measures may result in a separate violation under this Policy. Concerns that an individual may have violated a Protective Measure should be reported to OIE as soon as possible.

The process for receiving both Supportive and Protective Measures is described in more detail in the procedures identified in [Section IV](#). In addition, Supportive Measures may be requested directly from a [Confidential Resource](#) regardless of whether the Prohibited Conduct is otherwise reported to the University or law enforcement.

VIII. PROHIBITED CONDUCT

Prohibited Conduct under this Policy includes the following specifically defined forms of behavior: Sexual Assault, Sexual Exploitation, Sexual Harassment, Gender-Based Harassment, Stalking, Intimate Partner Violence, Sex and Gender-Based Discrimination, Retaliation, and Violation of Protective Measures.

Whether someone has engaged in Prohibited Conduct under this Policy will be assessed under a Reasonable Person standard.

A. Consent

Some forms of Prohibited Conduct involve the issue of Consent. For purposes of this Policy, Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in Sexual Activity.

For purposes of this definition, Sexual Activity refers to any conduct of a sexual nature for which Consent is required under this Policy (i.e., Sexual Contact, as defined below; behaviors identified in the definition of Sexual Exploitation, below). A person who initiates Sexual Activity is responsible for obtaining Consent for that conduct. Consent cannot be obtained by Force or Incapacitation, as defined below.

For purposes of this Policy, in evaluating whether Consent was given, the issue is:

- Did the person initiating Sexual Activity know that the conduct in question was not consensual? If not,
- Would a Reasonable Person who is unimpaired by alcohol or drugs have known that the conduct in question was not consensual?

If the answer to either of these questions is “yes,” the conduct is likely a violation of this Policy.

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 determine 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. In cases involving prior or current relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of Consent.

Consent to engage in a particular 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 can be withdrawn by any party at any point. An individual who seeks to withdraw Consent must communicate, through clear words or actions, a decision

to cease the Sexual Activity. Once Consent is withdrawn, the Sexual Activity must cease immediately.

Given the inherent power differential, in the context of a professional faculty-student, staff-student or supervisor-supervisee relationship, when the Respondent is the faculty member, staff member or supervisor, the University will generally apply heightened scrutiny to an assertion of Consent.

1. Force

Force includes the use of physical violence, threats, and/or coercion.

Physical violence means that a person is exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.

Threats are words or actions that would compel a Reasonable Person to engage in unwanted Sexual Activity. Threats may be implicit or explicit, but must be of such a nature that they would reasonably cause fear. Examples include threats to harm a person physically or to cause a person academic, employment, reputational, or economic harm.

Coercion is the use of an unreasonable amount of pressure to overcome the will of another. Coercion is more than an effort to persuade, entice, or attract another person to engage in Sexual Activity. When a person makes clear a decision not to participate in a particular Sexual Activity, a decision to stop, or a decision not to go beyond a certain sexual interaction; continued pressure can become coercive. In evaluating whether coercion was used, the University will consider: (i) the frequency, intensity, and duration of the pressure; (ii) the degree of isolation of the person being pressured; and (iii) any actual or perceived power differential between the parties in the context of their respective roles within the University.

2. Incapacitation

Incapacitation or Incapacitated means that a person lacks the ability to make informed, deliberate choices 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 knows or reasonably should know that the other is Incapacitated.

A person who is Incapacitated is unable to give Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that Sexual Activity was requested, suggested, initiated, and/or 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 solely as a result of drinking or using drugs; the level of impairment must be significant enough to render the person unable to give Consent.

In evaluating Consent in cases of alleged Incapacitation, the University considers:

- Did the person initiating Sexual Activity know that the other party was Incapacitated?
- If not, would a Reasonable Person who is unimpaired by alcohol or drugs 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 signs that show that a person may be Incapacitated, regardless of the amount of alcohol or drugs consumed. Although every individual may manifest signs of Incapacitation differently, typical signs 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?

It is important to be cautious before engaging in Sexual Activity when any person involved has been drinking alcohol or using drugs. The use of alcohol or other drugs may impair an individual’s ability to determine whether Consent has been sought or given. If there is doubt about an individual’s level of intoxication, the safe thing to do is to refrain from engaging in Sexual Activity. Being impaired by alcohol or other drugs is not a defense to a failure to obtain Consent.

B. Types of Prohibited Conduct

1. Sexual Assault

Sexual Assault is Sexual Contact that occurs without Consent.

Sexual Contact includes:

- Intentional sexual touching of another person's breasts, buttocks, or genitals, whether clothed or unclothed (including intentional touching with ejaculate);
- Intentional sexual touching with one's breast, buttocks or genitals (including touching with ejaculate);
- Making a person touch another person or themselves with or on any of these body parts; and/or
- Vaginal or anal penetration by a penis, tongue, finger, or other object.

2. Sexual Exploitation

Sexual Exploitation is intentional conduct by which an individual takes or attempts to take non-consensual sexual advantage of another for one's own benefit, or to benefit anyone other than the one being exploited. Examples of Sexual Exploitation include intentionally or knowingly doing any of the following:

- Causing the Incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give Consent to Sexual Activity;
- Voyeurism, including observing or allowing Third Parties to observe private sexual or intimate activity (e.g., disrobing, bathing, toileting) without the Consent of the individual(s) being observed, whether from a hidden location or through electronic means (e.g., Skype or live-streaming of images);
- Recording or photographing, or disseminating or posting images of private sexual or intimate activity and/or a person's intimate parts (including genitalia, groin, breasts and/or buttocks) without Consent;
- Prostituting (i.e., engaging in Sexual Contact for payment) another person;

- Demanding financial compensation, Sexual Contact, or some other benefit under threat of disseminating or posting images, video or other recording, of private sexual or intimate activity and/or a person's genitalia, groin, breasts and/or buttocks;
- Exposing another person to a sexually transmitted infection or virus without the other's knowledge; and/or
- Through one's actions, aiding or assisting another person in committing an act of Prohibited Conduct.

3. Sexual Harassment

Sexual Harassment is any unwelcome conduct of a sexual nature, whether verbal, graphic (e.g., pictures and videos), physical, or otherwise, when:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, education, living environment, or participation in any University program and/or activity; and/or
- Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity; and/or
- Such conduct creates a hostile environment. A hostile environment exists when the unwelcome conduct of a sexual nature is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's participation in a University program or activity or creates an intimidating, hostile, offensive, or abusive environment for that individual's participation in a University program or activity. 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 a hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient.

For purposes of this Policy, in evaluating whether behavior is unwelcome, the issue is:

- Did the person initiating conduct of a sexual nature know that the conduct in question was unwelcome?
- If not, would a Reasonable Person who is unimpaired by alcohol or drugs have understood the conduct to have been unwelcome?

Conduct of a sexual nature that falls within the definition of Sexual Activity, above, will typically be reviewed as alleged Sexual Assault or Sexual Exploitation, as applicable, but may also be reviewed as alleged Sexual Harassment. Examples of conduct that may constitute Sexual Harassment include but are not limited to:

- Unwanted intentional touching such as kissing, hugging, or sexual touching that otherwise does not typically constitute Sexual Assault, defined above;
- Unwanted sexual advances, including repeated unwanted requests for dates, or repeated unwanted requests for sexual contact;
- Unwanted written, verbal, or electronic statements of a sexual nature, including sexually suggestive comments, jokes, or innuendos;
- Exposing one's genitalia, breasts, or buttocks, to another; and/or
- Touching oneself sexually for others to view.

This definition addresses intentional conduct. It also includes conduct which results in negative effects even though such negative effects were unintended. Unwelcome conduct of a sexual nature constitutes Sexual Harassment if a Reasonable Person would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

4. Gender-Based Harassment

Gender-Based Harassment includes harassment based on actual or perceived sex, sexual orientation, gender identity, gender expression, or pregnancy. Such harassment may include acts of aggression, intimidation, or hostility, whether verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the behavior:

- Adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University program or activity; and/or

- Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity; and/or
- Creates a hostile environment for that individual's participation in a University program or activity. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's participation in a University program or activity, or creates an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living environment, or participation in a University program or activity. Conduct must be deemed objectively severe, persistent, or pervasive from both a subjective and objective standard. 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 a harassing hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient. Examples of conduct that may constitute Gender-Based Harassment include but are not limited to:

- A series of written, verbal, or electronic statements that disparage a person based on their actual or perceived sex, gender identity, gender expression, sexual orientation, or pregnancy; and/or
- Threats of violence toward an individual based on their actual or perceived identity; within a protected class, or toward an entire sex, gender identity, gender expression, sexual orientation, or pregnancy status as a group; and/or
- Defacing University property, or another individual's property, with symbols or language intended or understood by a Reasonable Person to disparage or threaten a person or group based on sex, gender identity, gender expression, sexual orientation, or pregnancy.

This definition addresses intentional conduct. It also includes conduct which results in negative effects even though such negative effects were unintended. Unwelcome behavior constitutes Gender-Based Harassment if a Reasonable Person would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

In some cases, harassment may be based on multiple protected class bases included in the University's Nondiscrimination Policy Notice. In general, harassment by a Student, involving protected class bases other than actual or perceived gender, sexual orientation, gender identity, or gender expression might fall under other University policies. For matters involving Student Respondents, this would include the student code of conduct in effect at the specific campus. For matters involving Employee or Third Party Respondents, this could include, but is not limited to the Discrimination and Harassment Policy Standard Practice Guide 201.89-1. Where this is an indication that reported harassment may be based on both gender (including sexual orientation, gender identity, or gender expression) and another protected class basis (e.g., race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status), OIE will consult with other University officials, as needed, in order to determine whether the matter is most appropriately addressed under this Policy, another University Policy, or for different aspects of the matter to be addressed separately under each.

5. Sexual and/or Gender-Based Stalking

Stalking occurs when an individual engages in a course of conduct directed at a specific person under circumstances that would cause a Reasonable Person to fear bodily injury or substantial emotional distress.

Course of conduct means two or more unwelcome acts, including but not limited to acts in which a person directly, indirectly or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.

Stalking behavior addressed under this Policy typically includes one or more of the following elements:

- Is sexual or romantic in nature; and/or
- Is committed by a Complainant's current or former partner of an intimate, romantic, or sexual relationship; and/or
- Is related to the Complainant 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 Complainant.

Where a report of Stalking involves the alleged behavior of a Student, the Title IX Coordinator will determine if the reported conduct meets these criteria. Alleged stalking behavior by a Student that does not fall under this Policy may be addressed as harassment under the relevant code of conduct for Students on the [Ann Arbor](#), [Dearborn](#), or [Flint](#) campus, as applicable.

Where a report of Stalking involves the alleged behavior of a faculty or staff member, or Third Party, OIE, in consultation with the applicable HR unit, will determine if the reported conduct meets the above criteria. Alleged Stalking behavior by a faculty or staff member, or a Third Party may be addressed under the [Violence and Disruptive Behavior in the Workplace](#) policy.

6. Intimate Partner Violence

Intimate Partner Violence (IPV), also referred to as dating violence, domestic violence, relationship violence, or intimate partner abuse, is physical violence or any pattern of emotionally or financially abusive behavior that occurs with an intimate partner. Intimate partner can refer to a current or former partner in a sexual, dating, spousal, domestic, or other intimate relationship.

IPV can vary in frequency and severity and can occur on a continuum, ranging from one episode to multiple episodes over a period of time. IPV may include physical assault and any form of Prohibited Conduct under this Policy.

Such conduct constitutes IPV when the conduct is so severe, persistent, or pervasive from both an objective and subjective perspective as to significantly interfere with an individual's ability to participate in a University program or activity or cause substantial emotional distress.

Intimate partner abuse may also be addressed by the [Violence and Disruptive Behavior in the Workplace](#) policy.

7. Sex and Gender-Based Discrimination

Sex and Gender-Based Discrimination is conduct that is based upon an individual's sex, sexual orientation, gender identity, gender expression, or pregnancy that:

- Adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University program or activity; and/or

- Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity.

Some examples of conduct that may constitute prohibited sex or gender-based discrimination may include, but are not limited to:

- Denying a person access to an educational or employment program based on that person's sex, sexual orientation, gender identity, gender expression, or pregnancy;
- Denying raises, benefits, promotions, and/or other conditions of employment on the basis of a person's sex, sexual orientation, gender identity, gender expression, or pregnancy;
- Preventing any person from using University facilities or services because of that person's sex, sexual orientation, gender identity, gender expression, or pregnancy.

8. Retaliation

Retaliation means any adverse action taken 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. Retaliation does not include pursuit of civil, criminal, or other legal action, internal or external to the University.

9. Violation of Protective Measures

Protective Measures are discussed in more detail in [Section VII](#). Failure to comply with Protective Measures as required is a separate and independent violation of this Policy.