

University Policy on Sexual Harassment

The following policy was issued by the Office of the President on September 1, 1992 and revised in May 1999 and January 2011.

I. Introduction

Michigan State University is committed to maintaining a learning and working environment for all students, faculty, and staff that is fair, humane, and responsible - an environment that supports career and educational advancement on the basis of job and academic performance. Sexual harassment subverts the mission of the University and offends the integrity of the University community. It is not tolerated at Michigan State University.

Sexual harassment is a form of unlawful gender (sex) discrimination. It may involve harassment of women by men, harassment of men by women, and harassment between persons of the same sex. Sexual harassment is made unlawful by Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, and Michigan's Elliott-Larsen Civil Rights Act. The University and the law also prohibit retaliation against persons who complain about alleged sexual harassment or who cooperate in an investigation of reported sexual harassment.

This Policy applies to all members of the University community - faculty, staff, and students. This Policy also prohibits sexual harassment by third parties towards members of the University community.

II. Prohibition

Members of the University community shall not engage in sexual harassment. Persons who do so are subject to disciplinary action, up to and including discharge for employees and dismissal for students. The University also prohibits sexual harassment by third parties towards members of the University community.

III. Definition

A. What is Sexual Harassment?

"Sexual harassment" means unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome behavior of a sexual nature when:¹

1. submission to such behavior is made, explicitly or implicitly, a term or condition of an individual's employment or status in a course, program, or activity; or

¹ Harassment based on gender that does not involve unwanted sexual attention is prohibited gender discrimination under the University's Anti-Discrimination Policy.

2. submission to or rejection of such behavior is used as a basis for a decision affecting an individual's employment or participation in a course, program, or activity; or
3. such behavior is so severe, persistent, or pervasive that a reasonable person would find that it:
 - a. alters the terms or conditions of a person's employment or educational experience, or
 - b. unreasonably interferes with an individual's work or performance in a course, program, or activity, thus creating a hostile or abusive working or educational environment.

A person's subjective belief alone that behavior is offensive does not necessarily make that behavior sexual harassment. The behavior must also be objectively unreasonable.

The determination as to whether behavior is sexual harassment must take account of the totality of the circumstances, including the nature of the behavior and the context in which it occurred. Sexually harassing conduct often involves a pattern of offensive behavior. However, a single incident may constitute sexual harassment depending on factors such as: the degree to which the conduct affected the student's education or the employee's work environment; the type, frequency and duration of the conduct; and the identity of and the relationship between the alleged harasser and the recipient of the conduct.

B. Examples of Sexual Harassment

Many kinds of behavior may fit within the preceding definition of sexual harassment. Speech and expressive conduct can also be sexual harassment. The following list is not exhaustive.

- sexual assault
- threats or insinuations which lead the victim reasonably to believe that granting or denying sexual favors will affect her or his reputation, education, employment, advancement, or standing within the University
- sexual advances, sexual propositions, or sexual demands which are not agreeable to both parties
- unwelcome and persistent sexually explicit statements or stories which are not legitimately related to employment duties, course content, research, or other University programs or activities
- repeatedly using sexually degrading words or sounds to describe a person
- unwanted and unnecessary touching, patting, hugging, or other physical contact
- recurring comments or questions about an individual's sexual prowess, sexual deficiencies, or sexual behavior

Behavior of a sexual nature that is not sexual harassment may nonetheless be unprofessional in the workplace, disruptive in the classroom, or violate other University policies and, like other behavior that is unprofessional, disruptive or violates policy, could warrant discipline.

C. First Amendment Protections

This Policy shall not be interpreted to abridge First Amendment rights or to infringe academic freedom, as defined in the Faculty Handbook, the Faculty Rights and Responsibilities policy, and the document entitled Academic Freedom for Students at Michigan State University. The protections of the First Amendment must be carefully considered in all complaints involving speech or expressive conduct. The fact that speech or a particular expression is offensive is not, standing alone, a legally sufficient basis to establish a violation of this Policy. In order to violate this Policy, speech or expressive conduct must constitute sexual harassment, as defined in Section III.A above. Speech or expressive conduct that constitutes sexual harassment is neither legally protected expression nor the proper exercise of academic freedom.

IV. Violations: Title IX Complaint Procedures

A. Reporting Sexual Harassment

A member of the University community who wishes to file a complaint about sexual harassment by an employee or student of the University **should take the following action:**

- **If the alleged harasser is a faculty or staff member, the complaint should be made, orally or in writing, to the alleged harasser's unit administrator or to the University's Title IX Coordinator.**
- **If the alleged harasser is the unit administrator, the complaint should be made, orally or in writing, to the unit administrator's superior or to the University's Title IX Coordinator.**
- **If the alleged harasser is a student, the complaint should be made to the Department of Student Life² or to the University's Title IX Coordinator.**

In order for the University to most effectively investigate and respond to alleged sexual harassment, the complaint should be made as promptly as possible after the alleged sexual harassment occurs.

The University can take corrective action only when it becomes aware of problems. Therefore, the University encourages persons who believe that they have experienced sexual harassment to come forward with their complaint and seek assistance within the University. Faculty, staff, and students who believe that they have witnessed sexual harassment are encouraged to report the alleged harassment promptly.

² Complaints filed directly with the Department of Student Life will be referred to the Title IX Coordinator for investigation before any judicial proceedings are initiated.

A member of the University community who believes that she or he has been sexually harassed may also elect to file a complaint with the Anti-Discrimination Judicial Board (“ADJB”) for violation of the University's Anti-Discrimination Policy or to file a grievance against the alleged harasser under any applicable University procedure. However, the submission of such a complaint or grievance does not affect the University's ability to investigate, take disciplinary action, or other administrative action even though the complaint or grievance is still pending.

Reports of sexual assault and other crimes should be directed to the MSU Police Department, regardless of whether the matter is also reported as sexual harassment.

B. Contact Information

1. Title IX Coordinator:
Paulette Granberry Russell
Office for Inclusion and Intercultural Initiatives
101 Olds Hall
East Lansing MI 48824
(517) 353-3922
inclusion@msu.edu.
2. Department of Student Life:
101 Student Services Building
East Lansing, MI 48824
(517) 355-8206
3. MSU Police Department:
87 Red Cedar Road
East Lansing, MI 48824
(517) 355-2221
Emergencies: 911
4. ADJB Office:
101 Olds Hall
East Lansing, MI 48824
(517) 432-3898

C. Sexual Harassment by Third Parties

The University prohibits sexual harassment by third parties towards members of the University Community. Although individuals who are not students or employees of the University are not subject to discipline under the University's internal processes, the University will take prompt, corrective action to eliminate sexual harassment and prevent its recurrence.

If a University student believes that she or he has been sexually harassed in a University program or activity by an individual who is not a University employee or student, the student should report the alleged sexual harassment to the unit administrator (department chair or dean)

responsible for that academic program or to the Director of the Office for Inclusion and Intercultural Initiatives.

If a University employee (including a student employee) believes that he or she has been sexually harassed within the scope of his or her employment activities by an individual who is not a University employee or student, the University employee should report the alleged sexual harassment to his or her supervisor or to the Director of the Office for Inclusion and Intercultural Initiatives.

D. Options Outside the University for Resolution of Sexual Harassment

Students may file complaints under Title IX with the Office for Civil Rights, U.S. Department of Education. Contact the Office for Inclusion and Intercultural Initiatives for current contact information.

Faculty and staff may file complaints under Title IX with the Office for Civil Rights, U.S. Department of Education in certain circumstances; under Title VII, with the Equal Employment Opportunity Commission; or under the Elliott-Larsen Civil Rights Act with the Michigan Department of Civil Rights. Contact the Office for Inclusion and Intercultural Initiatives for current contact information.

E. Processing Complaints

All complaints of alleged sexual harassment are investigated under the oversight of the University's Title IX Coordinator. The University will investigate all formal complaints of sexual harassment it receives.³ The Title IX Coordinator may also determine that an investigation is warranted without a formal complaint if the University has sufficient notice that sexual harassment may have occurred.

1. Investigation Timelines

Timeframes for completion of each step of the investigation process are outlined in the I3 Complaint Procedures (www.inclusion.msu.edu/files/I3_COMPLAINT_PROCEDURES.pdf). Investigations of sexual harassment will normally be completed within 120 calendar days. If the investigation cannot be completed within that timeframe, the complainant and the respondent will be informed of the reasons for the delay and an estimated date of completion.

2. Interim Measures

The University may take interim measures it deems necessary during an investigation. Interim measures will be taken within the context of University policies and might include changes to class or housing assignments for students or work assignments for employees.

³ This policy is a subordinate policy of the University's Anti-Discrimination Policy ("ADP"). As such, the jurisdictional limits of the ADP apply and the University will not investigate allegations of sexual harassment that occur outside the scope of the University's jurisdiction.

3. Complaints in Which a Student is the Alleged Harasser

Complaints of alleged sexual harassment by a student will be investigated under the oversight of the University's Title IX Coordinator. If that investigation results in a finding that sexual harassment has occurred, the Title IX Coordinator will file a complaint with the Department of Student Life and such complaint will be processed under the student disciplinary code. In those cases, the Title IX Coordinator will be identified as the Complainant and it will be the prerogative of the victim to determine in what capacity he/she will participate (i.e., co-complainant, witness, or no participation).

4. Complaints in Which an Employee is the Alleged Harasser

Complaints of alleged sexual harassment by a faculty or staff member will be investigated under the oversight of the University's Title IX Coordinator. Complaints made to the Title IX Coordinator will be referred to the unit administrator of the alleged harasser or, if the alleged harasser is the unit administrator, to the unit administrator's superior. Complaints made or referred to the unit administrator of the alleged harasser or the unit administrator's superior will be processed by those individuals.

The Office for Inclusion and Intercultural Initiatives will assist units with processing and investigating complaints of harassment. In addition to conferring with the Office for Inclusion and Intercultural Initiatives, the responsible administrator may confer with the Office of the General Counsel, and academic or human resources administrators. Guidelines for investigating allegations of sexual harassment are available to administrators at www.inclusion.msu.edu/page/sexual_harassment/.

In some cases, the Office for Inclusion and Intercultural Initiatives will be the primary investigator of a complaint of sexual harassment. Guidelines for investigations conducted by the Office for Inclusion and Intercultural Initiatives are available at www.inclusion.msu.edu/files/I3_COMPLAINT_PROCEDURES.pdf.

F. Investigations Generally

Each complaint of sexual harassment must be evaluated with reference to the pertinent circumstances. On occasion, a complaint will be resolved informally. Informal resolution efforts are voluntary and either party may request that the formal complaint process be commenced at any time. Informal resolution is facilitated by the Title IX Coordinator and does not involve any requirement that the parties meet unless both parties request such a meeting and the Title IX Coordinator determines such a meeting would be appropriate.

Other complaints will result in investigations, including interviews and the review of documentary material. Both the complainant and the alleged harasser will be notified of the outcome of an investigation. If an investigation results in a determination that sexual harassment has occurred, the University will take remedial action, including, where appropriate, disciplinary action, to eliminate the harassment and prevent its recurrence. The Title IX Coordinator, in cooperation with the relevant University officials, will make certain that the appropriate

remedies are provided to the complainant, regardless of the outcome of any disciplinary proceedings, and will monitor the matter to assure that harassment does not recur.

G. Confidentiality

To the extent permitted by law, the confidentiality of all persons involved in a sexual harassment investigation or complaint will be observed, except insofar as information needs to be disclosed so that the University may effectively investigate the matter or take corrective measures.

H. Retaliation

Persons who complain about sexual harassment, or who cooperate in the University's investigation and handling of sexual harassment reports or complaints, shall not be subject to retaliation for complaining or cooperating, whether or not the University finds that there was sexual harassment. If a complainant or witness believes that she or he is being subjected to retaliation, she or he should promptly contact the Assistant Vice President for Human Resources (staff), the Associate Provost/Associate Vice President for Academic Human Resources (faculty and academic staff), the Vice President for Student Affairs and Services (students), or the Director of the Office for Inclusion and Intercultural Initiatives (faculty, staff, or students).

I. Cooperation

Members of the University community are expected to cooperate in investigations of alleged sexual harassment by University officials. If cooperation does not occur, the investigation will generally proceed based on the information available.

J. Assistance with Processing Claims

The Office for Inclusion and Intercultural Initiatives is responsible for monitoring the University's compliance with federal and state nondiscrimination laws. However, a discrimination-free environment is the responsibility of every member of the community. Unit administrators set the tone regarding acceptable conduct and climate within their units.

Unit administrators are responsible for processing complaints, under this policy, in which the alleged harasser is an employee. Unit administrators who need assistance in applying this Policy, education and training with respect to the Policy and who have questions about prevention of issues pertaining to this Policy may contact: the Assistant Vice President for Human Resources or the Associate Provost/Associate Vice President for Academic Human Resources, whichever is appropriate; the Director of the Office for Inclusion and Intercultural Initiatives; and/or the Office of the General Counsel.

K. University Action

In order to further its commitment to provide an environment free of unlawful harassment, the University may investigate alleged incidents of sexual harassment of which it becomes aware, even if no formal complaint has been filed or the individual(s) involved is unwilling to pursue a

complaint or cooperate in an investigation. University employees who become aware of specific and credible allegations of sexual harassment, whether through the report of a complainant or otherwise, should report the allegations promptly to the Title IX Coordinator.

L. Reporting Requirements

To assure University-wide compliance with this policy and with federal and state law, the Office for Inclusion and Intercultural Initiatives must be advised of all reported incidents of sexual harassment and their resolution. The Office for Inclusion will monitor repeated claims within the same unit or against the same individual, where identified, to assure that such claims are appropriately handled.

M. False Complaints

Any member of the University community who knowingly files a false complaint of sexual harassment, or who knowingly provides false information to or intentionally misleads University officials who are investigating a complaint of alleged sexual harassment, is subject to disciplinary action, up to and including discharge for employees and dismissal for students.

V. Prevention and Resources

A. Education

The University is committed to preventing and eliminating sexual harassment of students, faculty, and staff. To that end, this policy will be published on the University's web site. Information regarding sexual harassment and this policy will be included in orientation materials for new students, faculty, and staff and made available in the Office for Inclusion and Intercultural Initiatives, as well as on its website, and in other appropriate campus locations. In addition, appropriate educational sessions will be conducted by the University on an ongoing basis to (1) inform faculty, and staff about identifying sexual harassment and the problems it causes, (2) advise members of the University community about their rights and responsibilities under this policy, and (3) train personnel in the administration of this policy. Each unit is responsible for ensuring that its staff has recently received this training.

B. Liaisons

Additionally, each College and Major Administrative Unit is expected to designate at least one individual as a contact person under this policy who is trained to answer questions, provide information and to take and refer, as appropriate, claims of sexual harassment. This individual is responsible for attending the University Sexual Harassment Training and regularly meeting with the Office for Inclusion and Intercultural Initiatives to receive training, updates and to discuss issues arising in the colleges and units.

C. Other Relevant University Policies

Since sexual harassment is a form of unlawful gender discrimination, a member of the University community who violates this Policy also violates the University's Anti-Discrimination Policy. Other University policies relevant to behavior of a sexual nature by members of the University community include Conflict of Interest in Educational Responsibilities Resulting from Consensual Amorous or Sexual Relationships, Conflict of Interest in Employment, Article 2.00 of the General Student Regulations, Article 3.00 of the Graduate and Undergraduate Residence Hall Regulations, and Ordinance 22.00.

The inherent imbalance of the faculty-student relationship means that any sexual relationship between a faculty member and a student is potentially exploitive and should be avoided.

Sexual Harassment Reported

You Need To...

- Review the Sexual Harassment Policy.
- Know that the University does not tolerate sexual harassment. Such behavior subverts the mission of the University and threatens the careers, educational experience, and well-being of students, faculty and staff.
- Remember that members of the University community are responsible for knowing and understanding the University's policy prohibiting sexual harassment.
- Review the Sexual Harassment Policy for the steps to take should an employee/co-worker decide to file a complaint.