

Michigan State University
Office of Institutional Equity
COMPLAINT PROCEDURES

The Office of Institutional Equity (“OIE”) is responsible for ensuring the University’s compliance with federal and state laws and University policies and procedures regarding discrimination, harassment, relationship violence, stalking, and sexual misconduct. OIE’s role is to conduct impartial, fair, prompt, reliable, adequate, and unbiased investigations into allegations of violations of the University’s Anti-Discrimination Policy (“ADP”) and Policy on Relationship Violence and Sexual Misconduct (“RVSM”). These policies can be found on OIE’s website.

The complaint procedures outlined in this document apply to claims alleging all forms of discrimination or harassment, including sexual and gender-based harassment, assault, and violence, against employees, students, and third parties. They apply to all University programs and activities, including those conducted off-campus and in the University’s professional and graduate schools.^{1,2} Complaints filed against students in any specialized programs (e.g., the College of Medicine or graduate programs, with the exception of the MSU College of Law) will be handled through OIE, not through the dean or administrative heads of those programs.

Contact information for filing a claim:

Deputy Title IX Coordinator for Investigations
Office of Institutional Equity
4 Olds Hall, East Lansing, MI 48824
Phone: (517) 353-3922
Email: oiie@msu.edu
Website: oiie.msu.edu

Contact information for MSU’s Title IX Coordinator:

Jessica Norris
Office of Institutional Equity
4 Olds Hall, East Lansing, MI 48824
Phone: (517) 353-3922
Email: jrnorris@msu.edu

A University community member may either meet informally with an OIE staff member, or invoke a formal process that generally triggers an investigation, as explained in more detail

¹ The Michigan State University College of Law is an independent entity, with separate policies and processes.

² Where relevant, if the off-campus misconduct did not occur in the context of a University program or activity, the University will consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or facility.

below. The University will not allow conflicts of interest (real or reasonably perceived) by those investigating or adjudicating claims.

1. Informal Procedures

Individuals may request that a claim be resolved informally. The purpose of the informal process is to permit a person with a claim to: (1) gather information regarding issues of discrimination and harassment prior to filing a formal claim; and (2) explore the option of pursuing a mutually agreeable solution, without invoking formal procedures. OIE's function in the informal process is to consult, advise, and facilitate alternative dispute resolution, if applicable and possible. Both parties have the right to end the informal process at any time and begin formal procedures, as outlined later in this document.

- *Consulting and Advising*

OIE will consult with community members and units about issues of discrimination and harassment. OIE does not act as a representative for any party. Rather, the office provides information and guidance regarding avenues for pursuing claims and the requirements for proving individual claims. This generally can be accomplished on a confidential basis, with only a brief, confidential record of the meeting maintained. A claimant or reporting individual may believe that they do not have access to information that would enable them to state a claim of a policy violation. In such a case, OIE may decide to acquire the information. This is still considered part of the information-gathering process and this fact is communicated to the person responding to the request for information.

- *Alternative Dispute Resolution*

Parties may wish to consider alternative dispute resolution (e.g., mediation services or restorative justice), where appropriate and where both parties voluntarily agree to do so, to attempt to resolve issues that arise under the ADP. OIE will assist in the conciliation of disputes where both parties agree, and may refer parties to the University's mediation service – an independent service offered for free to certain eligible individuals (those with an academic appointment and members of the Clerical Technical Union) or the Department of Student Life. In no case shall the claimant be required to resolve the problem directly with the respondent. If an informal resolution is reached, a brief, confidential record to this effect will be kept by OIE.

- *Limitations on Informal Procedures*
There are instances where informal procedures or the alternative dispute resolution process are inappropriate. Alternative dispute resolution will not be used in matters involving allegations of sexual assault, or in cases involving a student complaining of sexual harassment against an employee in a position of authority over the student.

2. Formal Procedures

OIE's approach with respect to its formal investigation process is to be as fair as possible to all individuals involved in the process, while providing a thorough investigation and analysis of every claim. OIE does not act as a representative for either side; rather, it serves as a neutral fact-finder for determining whether the ADP or RVSM was violated. If a formal investigation is initiated, OIE will follow the proceeding steps:

- a. The claimant or a reporter contacts OIE and provides specific information stating the nature of the claim. OIE provides written information to the claimant about the various process options and campus and community resources.
- b. ***Discrimination cases only:*** The complaining individual must schedule a meeting with an OIE investigator and complete a written complaint form, signed by the person, stating the nature of the complaint. These forms are available on the OIE website and in the OIE office.
- c. OIE makes an initial determination based on the information provided by the claimant as to whether the claim meets jurisdictional requirements (e.g., that the claim states a violation of the ADP or RVSM). Every reasonable effort will be made to make jurisdictional decisions within 5 business days of the claim being presented to OIE.
- d. If jurisdictional requirements are met, OIE will promptly and effectively notify the individual, office, or unit against whom the claim is filed, notifying them of the initiation of the investigation, the potential policy violation(s) at issue, the right to participate in the investigation, the timeframe for responding, and that the investigation may proceed without either party. If appropriate, the applicable unit administrator will also be notified of the investigation.
- e. OIE will investigate the claim by conducting interviews and reviewing records in order to determine whether the ADP or the RVSM was violated. Both the

claimant and the respondent will have the opportunity to provide a statement, submit evidence, and identify potential witnesses. Information considered by OIE in analyzing the claim will be disclosed to both the claimant and the respondent.

- f. The University uses a preponderance of the evidence standard in investigating and making findings related to all claims of violations of the ADP and RVSM, including sex discrimination, sexual and gender-based harassment, assault, and sexual and relationship violence. This standard means that, in determining whether a policy has been violated, OIE assesses whether, based on the evidence, it is more likely than not that the respondent engaged in the alleged prohibited conduct. More information about how claims are analyzed can be found in the ADP User's Manual (available on OIE's website).
- g. If there is a finding of a violation of the ADP or RVSM by a student, OIE will refer its findings to the Department of Student Life, as outlined in the Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy ("ADP/RVSMP") Student Conduct Review Panel Procedures document (available on OIE's website). Such a referral will be processed under the student disciplinary code to determine the appropriate sanction(s). In those cases, it will be the prerogative of the victim to determine in what, if any, capacity he/she will participate.

3. Assuring Fairness to All Parties

OIE conducts each investigation in an impartial, fair, prompt, reliable, adequate, and unbiased manner. OIE takes each claim – and each response to a claim – very seriously. All respondents will have the opportunity to provide a full response to all allegations. Both sides and the victim, if not a party, will have the opportunity to provide to OIE any documentation, names of witnesses, and other information they deem relevant to the investigation.

Both parties will receive written notice of the outcome of OIE's investigation. Both parties will have the opportunity to challenge OIE's decision, pursuant to procedures outlined in the ADP/RVSMP Student Conduct Review Panel Procedures document (available on OIE's website). Both parties will have the opportunity to participate in the challenge process, even if the party has not filed a challenge. Both parties will be notified of the outcome of any challenges.

Both parties have the right to be accompanied by an advisor or support person of their choice to any meetings with OIE. OIE will apply any restrictions on the advisor or support person's ability to speak or otherwise participate equally to both parties.

4. Confidentiality

The expectation of confidentiality, as well as no-retaliation, is paramount to any investigation. OIE will keep the investigation all details of any claim as confidential as possible, and will make clear to each individual with whom it interacts that the expectation of confidentiality also applies to them. OIE maintains a copy of the final Investigative Report in its office. Only student or employment disciplinary records, to the extent that they result from an investigation, are placed in a respondent's student or personnel file.

If a claimant requests that his or her name not be disclosed to the respondent or that no investigation be pursued, it may limit the scope of OIE's response. The University will evaluate any confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all members of the University community. The factors that the University may consider in this regard include the seriousness of the alleged harassment, the age of the individual harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result. If the claimant continues to ask that his or her name not be disclosed, the University will take all reasonable steps to investigate and respond to the claim consistent with the request as long as doing so does not prevent the University from responding effectively to the harassment and preventing the harassment of others.

5. No-Retaliation Policy

OIE will advise all parties and witnesses that retaliation and retaliatory harassment are strictly prohibited by the University and by Title IX with respect to any individual filing a claim or participating in the investigative process in any way. Persons who report a claim or policy violation, or who participate in OIE's investigation and handling of such reports, are protected from retaliation and retaliatory harassment, even if OIE finds no violation of policy. Retaliation generally means treating a person badly because the person participated in the OIE process. The University will take steps to prevent retaliation and retaliatory harassment and will take strong responsive action if retaliation occurs.

Individuals can report retaliation and retaliatory harassment directly to OIE via email, phone, mail, fax, or in person at the contact information listed at the beginning of this document.

6. Expectation of Cooperation

To preserve the integrity of the policies and OIE's process, members of the University community are expected to cooperate in good faith during an OIE investigation by providing documents and information at the request of OIE. If an individual refuses to cooperate in an investigation, OIE will be forced to proceed without their input, which may result in an adverse finding. For example, if a respondent refuses to cooperate, OIE would generally proceed based on information and evidence presented by the claimant and/or witnesses. Without contrary evidence, there would likely be an adverse finding against the respondent.

7. Special Information for Gender Discrimination Claims (Including Sexual Misconduct, Relationship Violence, Stalking, and Sexual Harassment)

Title IX of the Educational Amendments of 1972 prohibits gender discrimination at institutions of higher education. The University prohibits gender discrimination in any of its programs or activities. Sexual harassment (including sexual assault and other kinds of sexual violence, relationship violence, and stalking) is a form of gender discrimination. Sexual violence is defined as a physical sexual act perpetrated without consent. Consent means the voluntary, willful, and unambiguous agreement to engage in a specific sexual activity during a sexual encounter. These complaint procedures apply to claims alleging all forms of gender discrimination against employees, students, and third parties.

All employees, other than non-professional counselors or advocates and those employees legally regarded as confidential resources, are expected to promptly report sexual and gender-based harassment, assault, and violence that they observe or learn about to OIE and, if the behavior is criminal in nature, to the MSU Police.

The claimant has the right to decline to participate in an investigation, appear in a proceeding with the respondent present, or otherwise confront the respondent during an OIE investigation and any subsequent challenges. The parties are prohibited from cross-examining each other in all OIE investigations and subsequent challenges.

There may be times in which OIE must proceed with a formal investigation despite the wishes of the claimant or reporting individual, because the University has an obligation to promptly take steps to investigate or otherwise determine what

occurred and then to take appropriate steps to resolve the claim when it knows or reasonably should know about possible discrimination (from any source); regardless of whether the claimant declines to participate in the process. The University will seek to balance a claimant's request for anonymity or not to participate in an investigation with its broader obligation to campus safety.

The University will respond to complaints, reports, or information about incidents of gender discrimination to stop prohibited gender discrimination, eliminate any hostile environment, take steps to prevent the recurrence of the gender discrimination, and address any effects on campus or in the context of any University programs and activities regardless of location.

Claimants may pursue a claim with OIE and law enforcement simultaneously. OIE may need to briefly suspend the fact-finding aspect of an investigation at the request of law enforcement while the law enforcement agency is in the process of gathering evidence. OIE will maintain regular contact with law enforcement to determine when it may begin its investigation. OIE will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence-gathering process, or sooner if OIE determines that the evidence-gathering process will be lengthy or delayed. OIE will not delay its investigation until the ultimate outcome of the criminal complaint.

Interim Measures

The University will take interim measures it deems necessary during an investigation. Interim measures are prompt and effective steps the University puts into place to end the harassment or discrimination, including sexual or gender-based harassment, assault, and sexual violence; eliminate any hostile environment, prevent its recurrence, and remedy the discriminatory effects on the victim and others as appropriate. Interim measures can include changes to class/work schedules, changes in living arrangements, and other accommodations. Interim measures are instituted immediately upon request by the claimant and remain in place while the investigation is being conducted.

The University will implement appropriate interim measures during any law enforcement agency's investigation period when the University has temporarily deferred its investigation, to assist and protect the safety of the claimant and the campus community and to prevent retaliation.

The University will notify claimants in writing that interim measures are available during OIE's investigation, and during any student conduct or challenge process, to

protect and support the claimant (such as University-enforced no-contact orders, changes in class schedules, counseling, other mental health services, academic assistance, the ability to retake or withdraw from courses without penalty, etc.); where and how to request such interim measures that the University will take steps to ensure that appropriate interim measures are taken or provided; and that the University will take steps to ensure, where possible and as supported by the available information, that such interim measures minimize the burden on the claimant.

Investigation Timelines

The University will use its best efforts to complete its investigations of sexual or gender-based harassment, assault, stalking, and sexual violence within 60 calendar days, although this timeframe may be extended for good cause. The University will make its best efforts to complete the major steps of the investigation process within the following timeframes, although these timeframes may be modified or extended for good cause:

INVESTIGATION STEP	TIMEFRAME
Contact claimant	Within 2 business days after receipt of report
Contact respondent	Within 5 business days after meeting with claimant ³
Provide draft report to parties	Within 30 days after completing all interviews
Issue final written report to parties which includes the outcome of the claim	Within 10 business days after receiving feedback from parties or completion of any additional investigation

Good cause may exist for a variety of factors, including the complexity of the circumstances of each allegation, the integrity and completeness of the investigation, to comply with a request by law enforcement, to accommodate the availability of witnesses, to accounts for University breaks or vacations, or to address other legitimate reasons.

The University will ensure that both parties are given regular updates about the progress of the investigation and its resolution. In the event a time frame is extended, both the claimant and the respondent will be notified of any delay and the anticipated length of the delay.

³ If law enforcement requests that the University delay contacting a respondent until after the law enforcement agency makes first contact with the individual, this timeframe may be extended.

8. Remedies and Sanctions

In cases where sexual or gender-based harassment, assault, or sexual violence is found to have occurred, the University will determine appropriate, enforceable sanctions reasonably calculated to stop the harassment, eliminate any hostile environment, prevent its recurrence and, as appropriate, remedy its effects. The University will not negotiate a settlement with the employee or student found responsible for the policy violation(s) for lesser actions that would not be reasonably calculated to end the sexual or gender-based harassment, assault, or sexual violence; eliminate the hostile environment; prevent its recurrence, and remedy the discriminatory effects on the claimant and others as appropriate. Remedies may include employment or housing accommodations, academic support, or counseling services. Other potential remedies may include targeted or broad-based educational programming or training.

Possible disciplinary sanctions that might result from a finding of harassment or discrimination, including gender harassment, sexual assault, or sexual violence, may include suspension or dismissal for students and termination for employees.

9. Other Options

An individual bringing a claim should know that there are other options for pursuing claims related to the ADP or the RVSM as well.

- Internally, for criminal matters, there is:

MSU Police Department
Phone: (517) 355-2221
police.msu.edu

- Externally, for employment related discrimination claims, there is:

The Equal Employment Opportunity Commission (EEOC)
Phone: (800) 669-4000
TTY: (800) 669-6820
www.eeoc.gov

The Michigan Department of Civil Rights
Phone: (517) 241-6300
Fax: (517) 335-3882
TTY: (517) 335-3881
www.michigan.gov/mdcr

- Externally, for education related discrimination claims, there is:

The Office of Civil Rights, Division of the Department of Education

Phone: (800) 421-3481

Fax: (202) 245-6840

TDD: (877) 521-2172

Email: ocr@ed.gov

If an individual chooses to utilize the external agency's services in addition to a formal OIE investigation, OIE will continue with its investigation, but its response will usually be directly to the agency.

- Union Represented Employees

Union represented employees should consult their collective bargaining agreements and speak to a union representative about the appropriate process for bringing claims of discrimination or harassment, or consult the University's Office of Human Resources, Employee Relations at: 1407 S. Harrison, Suite 130, East Lansing, MI 48823, (517) 353-5510.