

Michigan State University
Relationship Violence and Sexual Misconduct and Title IX Policy
Appeal Process

Background

The University prohibits acts of sexual harassment, including sexual misconduct, relationship violence and stalking through its Relationship Violence and Sexual Misconduct and Title IX Policy (“RVSM Policy”).

All complaints of alleged relationship violence, stalking, or sexual misconduct in violation of the RVSM Policy are investigated by or under the oversight of the Office of Institutional Equity (“OIE”) and, where a hearing is held, a Resolution Officer. These procedures provide a process to appeal the determination of responsibility contained in the written decision issued by OIE or the Resolution Officer following an investigation.

I. APPEALS

Both the claimant¹ and respondent may appeal pursuant to the following guidelines:

- A. Appeals are filed in writing and must specify the basis for appeal in sufficient detail to justify further proceedings.
- B. Appeals must be submitted within ten (10) calendar days² of written notice of the findings of OIE or the Resolution Officer.
- C. Appeals must allege one or more of the following:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter;
 - The written decision was arbitrary and capricious. A decision or finding is arbitrary and capricious when the application of the policy has no reasonable basis in fact.
- D. The party filing the appeal bears the burden of proof.
- E. Parties will be notified in writing when an appeal is filed by another party and provided an opportunity to respond in writing. OIE and/or the Resolution Officer will also be provided an

¹ Title IX refers to a claimant as a complainant. For purposes of these appeal procedures, claimant and complainant are synonymous.

² If a deadline contained within this document falls on a weekend or University holiday, the deadline will be extended to the next day on which the University is open for business.

opportunity to respond in writing to any appeal of the decision. Written responses to an appeal must be filed within ten (10) calendar days of the written notice of appeal. Copies of written responses will be shared with the other part(ies) and OIE. Additional rebuttal statements will not be accepted.

- F. Appeals will be decided by an Equity Review Officer. The Equity Review Officer is a neutral individual appointed by the Associate Vice President of the Office for Civil Rights and Title IX to adjudicate appeals under this process. The Equity Review Officer will not be the decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator. The Equity Review Officer receives annual training as described in Section XIV of the RVSM Policy.
- G. New evidence will not be considered in an appeal except as described above in Section I(C).
- H. The Equity Review Officer will review the appeal, any written responses to the appeal, the investigation report, and relevant portions of any hearings (if applicable). The Equity Review Officer may request other relevant documents or information necessary to his/her review of the appeal. This includes requests for clarification or additional explanation from OIE and/or the Resolution Officer. If clarification or additional explanation is provided by OIE or the Resolution Officer as part of the appeal review, it will be shared with the parties, who will be given an opportunity to provide further comment to the Equity Review Officer before the appeal decision is made.
- I. The Equity Review Officer will issue a written decision simultaneously to parties within eighteen (18) calendar days of receiving the appeal documents.
- J. In an appeal of finding(s) issued by OIE or the Resolution Officer, the Equity Review Officer may:
 - a. Uphold the determination of responsibility;
 - b. Determine that procedural irregularity occurred and affected the outcome and remand the matter to OIE or the Resolution Officer with instructions to remedy the procedural irregularity;
 - c. Determine that the decision is arbitrary and capricious as written and remand to OIE or the Resolution Officer;
 - d. Determine that substantive and relevant new evidence has been presented that warrants additional investigation or review and remand the matter to OIE and/or the Resolution Officer; or
 - e. Overturn or modify the determination of responsibility based on a determination that the decision was arbitrary and capricious or resulted from procedural error.
- K. The decision of the Equity Review Officer is final and is not subject to appeal.

II. TIMEFRAMES

The timeframes in this document may be extended for good cause, as determined by the Equity Review Officer, provided that the parties are provided with notice of the extension. Good cause is typically found where circumstances outside of a party's control would prevent that party from complying with the deadline. Requests for extensions should be made to the Equity Review Officer before the deadline has expired and explain why there is good cause for the extension.

III. ELECTRONIC SUBMISSIONS

All appeals, responses, and other documents submitted through this process should be submitted electronically to the Equity Review Officer at ERO@msu.edu.

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