

Michigan State University
Relationship Violence and Sexual Misconduct and Title IX Policy
Process to Appeal a Dismissal of a Formal Complaint

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 under the oversight of the Office for Civil Rights and Title IX (“OCR”). Pursuant to section XII.F of the RVSM Policy, a formal complaint may be dismissed by the University under certain conditions as described by the RVSM Policy. Either party may appeal the dismissal of a formal complaint according to the following process.

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 five (5) days² of written notice of the decision to dismiss a formal complaint.
- 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 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; and/or
 - The dismissal decision was arbitrary and capricious. A decision 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. Each party will be notified in writing when an appeal is filed and provided an opportunity to respond in writing to an appeal filed by the other party. OIE 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 References to “days” in this document refer to calendar days. 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 submitted prior to the ERO's response deadline. 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 the Equity Review Officer ("ERO") or designee. The Equity Review Officer, or designee, 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 and any designee(s) 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 and any designee(s) 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 ERO or designee will review the appeal, any written responses to the appeal, and the written dismissal decision. The ERO may request other relevant documents or information necessary to his/her review of the appeal. If clarification or additional explanation is provided as part of the appeal review, it will be shared with the parties.
- I. The Equity Review Officer will issue a written decision within seven (7) days of receiving the appeal documents simultaneously to both parties.
- J. If the ERO or designee determines the conditions for appeal have been met, the ERO will remand the matter to OIE.
- K. The decision of the ERO or designee 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 ERO, 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 ERO 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

Version 1.0: Effective August 14, 2020