

MICHIGAN STATE UNIVERSITY

Office of Institutional Equity Protocol for Addressing Bias Incidents, Acts of Prohibited Discrimination/Harassment, and Hate Crimes

Bias incidents, acts of prohibited discrimination and harassment, and hate crimes targeted against individuals and groups on the basis of a protected characteristic are counterproductive to the educational mission and goals of Michigan State University (MSU).¹

The following protocol has been developed to lend consistency and predictability to the University's response to such situations on campus. The purpose of this protocol is to provide guidance to address the many questions, concerns, and issues that arise when a bias incident, act of discrimination/harassment, or hate crime occurs on campus. This type of incident can have a widespread negative impact on many members of the MSU community.

DEFINITIONS

What is a bias incident?

A bias incident consists of verbal or nonverbal conduct that is threatening, harassing, intimidating, discriminatory, or hostile and is based on a category protected under the MSU Anti-Discrimination Policy ("ADP" or "Policy"), available online at <https://www.hr.msu.edu/policies-procedures/university-wide/>.

What is the difference between a bias incident, a hate crime and an act of discrimination?

A bias incident is defined more broadly than an act of discrimination. It is important to note that, although the expression of an idea or point of view might be offensive or inflammatory to some, not all bias incidents violate the law or are considered prohibited discrimination or harassment under the ADP.²

Please keep in mind that simply because the expression of an idea or point of view may be offensive or inflammatory to some, it is not necessarily a bias-related incident. MSU values freedom of expression and the open exchange of ideas and hopes that an effective protocol will contribute to an environment that encourages dialogue around challenging

¹ The protected characteristics contained in the University's Anti-Discrimination Policy include age, color, gender, gender identity, disability status, height, weight, marital status, national origin, political persuasion, race, religion, sexual orientation, and veteran status.

² For further discussion of the relationship between the First Amendment and complaints of harassment/discrimination, please see the ADP User's Manual, available online at <http://oie.msu.edu/>.

issues.

An act of discrimination is defined by the ADP as an “inappropriate limitation of employment opportunity, access to University facilities, or participation in educational, athletic, social, cultural, or other University activities” based on a category protected by the Policy. There are two basic theories of discrimination; disparate treatment and disparate impact. Disparate treatment requires intent to discriminate based on a protected category. Disparate impact is based on a facial neutral policy or practice that has disproportionate effect on a protected category.

An act of harassment is defined as unwelcome behavior based on a protected category that is so severe, persistent, or pervasive that it creates an unreasonable interference with an individual’s work or educational experience.

A “hate crime” is a term used to describe a bias incident that also constitutes a criminal act. Under Michigan criminal law, bias incidents that also constitute criminal acts are made unlawful under Michigan’s ethnic intimidation laws.³

REPORTING

Any person may file a complaint regarding a bias-related incident; the reporter can be the alleged victim of the treatment, or the reporter can file a report on behalf of another person. MSU strongly encourages campus community members to take an active role in reporting bias incidents and hate crimes in order to ensure an inclusive and welcoming campus for all. To report a bias incident, or if you have questions about a possible incident that you experienced, witnessed, or were informed about, please contact the Office of Institutional Equity (OIE) at 517-353-3922 or at oie@msu.edu.

RESPONSE

Bias incidents, acts of discrimination/harassment, and hate crimes require a timely response to address the following areas: (1) victim assistance, (2) incident review, (3) accountability, and (4) incident documentation. Protocols for addressing each area are described below.

1. Victim Assistance – The physical and emotional health of the victim(s) must be carefully considered after any bias incident. It is essential that the victim receive support immediately after the incident and be made aware of the resources available to assist with any emotional, mental, and/or physical impact.

³ Michigan Penal Code § 750.147b: (1) A person is guilty of ethnic intimidation if that person maliciously, and with specific intent to intimidate or harass another person because of that person's race, color, religion, gender, or national origin, does any of the following: (a) Causes physical contact with another person. (b) Damages, destroys, or defaces any real or personal property of another person. (c) Threatens, by word or act, to do an act described in subdivision (a) or (b), if there is reasonable cause to believe that an act described in subdivision (a) or (b) will occur.

- The MSU Police Department (517-355-2221) should be contacted immediately to provide medical attention and address issues related to personal safety and potential criminal conduct.
 - The victim's sense of safety and security should be addressed. Available options should be discussed, including possible housing reassignment or academic/course adjustments for students or alteration of work assignments or office space for employees.
 - Refer a student to the Counseling Center (517-355-8270) if the student is emotionally distressed by the incident. A faculty or staff member should be offered support through the Employee Assistance Program (517-355-4506).
 - The victim(s) should be contacted to determine whether they would like the University to contact anyone (*e.g.*, parent, sibling, relative) to provide emotional support.
 - A responsible person⁴ should be assigned to work with the victim(s) to provide support and assistance with any continuing concerns.
 - The victim(s) should be informed that the incident will be referred to OIE for assessment and investigation.
 - The victim(s) should be provided with information about the assessment/investigation process and options available to address the incident.
2. Assessment/Investigation – Each bias incident is unique and the University must assess the particular facts and circumstances of the incident in order to determine the appropriate response. Bias incidents are generally classified according to their level of seriousness. The three levels are as follows:

Level 1: A single nonviolent incident in which a member or members of a protected group⁵ is targeted for abuse. Examples: use of a racial epithet; homophobic graffiti.

Level 2: Physical intimidation, threat of physical violence, or multiple bias incidents directed against a member or members of a protected group. Examples: verbal threats; multiple racial epithets or incidents of homophobic graffiti.

⁴ This may be an OIE staff person, academic advisor, residential hall staff member, Intercultural Aide, or other regular University employee, as appropriate.

⁵ Protected groups are those identified in the University's Anti-Discrimination Policy.

Level 3: An act of violence against a member or members of a protected group.
Example: physical attack of a lesbian couple.⁶

OIE is responsible for assessing bias incidents and determining whether a formal investigation is warranted under the ADP. If a determination is made that a formal investigation is warranted, OIE will conduct or assist with the formal investigation.

OIE does not act as a representative for either side; rather, it serves as a neutral fact-finder for determining whether the ADP was violated. Following a formal investigation, OIE will issue a written report containing a summary of the investigation, analysis, and findings. A full description of OIE complaint procedures can be found at <http://oie.msu.edu>.

3. Accountability – The University is committed to holding perpetrators of bias incidents, discrimination, and harassment accountable through the procedures established for handling violations of University policy. In order to maximize the University’s ability to hold perpetrators accountable, all bias incidents should be reported to the MSU Police Department and OIE in a timely fashion.
 - If the University’s investigation results in a finding that a student has violated the ADP, OIE will file a complaint with the Department of Student Life in accordance with the Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy Student Conduct Sanction and Appeal Procedures (available online at <https://www.hr.msu.edu/policies-procedures/university-wide/>). In cases where the conduct does not violate the ADP but could constitute a violation of the General Student Regulations or other University policy, a complaint may be referred to the Student Conduct and Conflict Resolution Office for adjudication.
 - If the University’s investigation results in a finding that a staff employee has violated the ADP, MSU Human Resources will impose appropriate disciplinary action in accordance with established procedures.
 - If the University’s investigation results in a finding that a faculty member or academic staff member has violated the ADP, Academic Human Resources will impose appropriate disciplinary action in accordance with established procedures.
4. Incident Documentation – It is extremely important that timely and accurate documentation of the incident take place be reported to OIE promptly for inclusion in OIE’s centralized bias incident reporting database. Every reasonable effort should be made to report a bias incident to OIE within 48 hours of its occurrence.

⁶ Adapted from A Protocol for Addressing Acts of Intolerance and Threats to Community, Stanford University, June 2001, p. 11.

BIAS INCIDENT RESPONSE TEAM

In order to coordinate and ensure that the above protocol is followed, the Bias Incident Response Team (BIRT) will meet regularly to discuss all bias incidents and make further determinations for bias incidents that are classified as a level 2 or 3 incident.⁷ The BIRT will consist of the following administrators (or their designee):

Director, Office of Institutional Equity
Title IX/ADA Coordinator
Director, University Counseling Center
MSU Police Department
Director, Residence Education and Housing Services
Representative from the Student Conduct and Conflict Resolution Office
Director, Office of Cultural and Academic Transitions
Director, LGBT Resource Center

The BIRT will determine any additional actions that will be planned and implemented by the appropriate staff members. The BIRT will assess the incident and determine its severity and impact in the following areas:

- Individual or targeted group.
- Residents of some or all residence halls.
- Other specific segments of the MSU community, such as units/departments and colleges.
- The greater community beyond MSU.

The BIRT should consider the incident's severity and impact when it considers appropriate responses to the incident.

⁷ Although the BIRT may choose to convene to address a level 1 incident, response to a level 1 incident will normally be coordinated through OIE and may not involve all of the above-listed offices.