

Anti-Discrimination Policy & Relationship Violence and Sexual Misconduct Policy: Responding, Reporting, and Investigations

Office of Institutional Equity (OIE)
2017

Objectives:

- Understand where to find policies and resources to help you address faculty personnel concerns
- Recognize bias incidents and sexual misconduct
- Respond to reported or observed conduct
- Learn your mandatory reporting responsibilities under the University's policy
- Learn your disability accommodation requirements
- Understand Office of Institutional Equity (OIE) Investigations

Case Study: Thomas

Thomas is a fixed-term faculty member in your College. Jessica is a senior faculty member and Chair of Thomas' department. Thomas claims that Jessica has sexually harassed him, including the following incidents:

- In late 2013, Jessica put her hand on Thomas' shoulder and rubbed it for one to two seconds. Thomas said no and jerked away.
- In June of 2014, Thomas requested time off which Jessica approved on the condition that he not miss any classes. When he returned to work, Thomas received a memorandum chastising him even though he had not missed a class.
- After emphasizing the importance of teaching every class, Jessica reprimanded Thomas for not attending a meeting scheduled at a time when he had to teach class.
- At a Christmas party in 2014, Jessica grabbed Thomas' behind. When Thomas protested, Jessica said she "controlled Thomas' ass and she would do whatever she wanted with it."
- In the spring of 2015, Thomas repaired Jessica's deck. Afterward Jessica said, "now you and I can try the hot tub out together."
- In January of 2016, Jessica called Thomas and said she was irate because he lied about teaching a class at the University of Michigan. Jessica put her finger on Thomas' chest and pushed him towards the door. Thomas said, "this is the last time you're ever going to touch me."
- Angry that Thomas lied about teaching at the University of Michigan, Jessica terminated Thomas' contract.

Was Thomas sexually harassed? Why or why not?

Relationship Violence & Sexual Misconduct Policy (“RVSM”)

- Members of the University community shall not engage in relationship violence or sexual misconduct.
- Persons who do so are subject to disciplinary action, up to and including discharge for employees and dismissal for students.
- RVSM also covers both quid pro quo and hostile environment sexual harassment.

Case Study: Lisa

Lisa, a student, attends a faculty member Bill's office hours and discloses that she missed yesterday's quiz because she was sexually assaulted two nights ago at a party off-campus. She doesn't want to report the assault to the police or talk to anyone about the details. She only wants to know whether she can make up the quiz next week. She asks the faculty member not to tell anyone what has happened because she is too embarrassed.

- What should Bill do?
- What should the Bill tell Lisa?

Mandatory Reporter

- All University employees (with limited exceptions) are expected to promptly report **sexual violence, sexual exploitation, stalking or relationship violence** that they observe or learn about and that involves a member of the University community or occurred at a University sponsored event or on University Property to OIE and the MSU Police.
- Potential violations of the RVSM Policy must be reported to OIE.
- Consider including a mandatory reporting notice in your syllabus- visit oie.msu.edu for suggested language.
- Employees are only required to report relationship violence or sexual misconduct of which they become aware in their capacity as a University employee, not in their personal capacity
- Harassment by unaffiliated third parties must also be reported to OIE.

Inappropriate Text Messages/Emails- Real Examples

- To a student: “We can just relax and make love as much or as little as you like”
- To a student: “I am over being a dad and husband, I just want to be with you”
- To a student: “Why don’t you wear a little skirt so you can show off your _____”
- To a coworker: “Can you come over and help me work off some stress.”
- To a coworker: “I am planning an orgy this weekend, you should join.”
- To a subordinate employee: “I would love to spank you”

Case Study- DeShauna

DeShauna is a graduate student in your department. DeShauna is black. Her advisor, Karen, frequently makes comments to DeShauna about the importance of having a “professional” hair style, suggests she consider publishing under her initials to prevent judgment about her “ghetto” name, and frequently calls on DeShauna in class for the “African-American perspective.” Karen has also stated to DeShauna “You’re not loud and flashy like most black people.” DeShauna tells you her concerns and explains that she avoids Karen as much as possible. DeShauna asks you not to do anything because she is worried Karen will not give her co-authorship on a paper they are developing together.

Anti-Discrimination Policy (“ADP”)

- Members of the University community shall not:
 - Discriminate against any member of the University community on the basis of a protected category
 - Harass any member of the University community on the basis of a protected category
 - Persons who do so are subject to disciplinary action, up to and including discharge for employees and dismissal for students.

Protected Categories

- age
- color
- gender
- gender identity
- disability status
- height
- marital status
- national origin
- political persuasion
- race
- religion
- sexual orientation
- veteran status
- weight

What is Harassment

- Harassment of any kind occurs when a University community member is subject to unwelcome conduct based on a protected category that:
 - Is objectively and subjectively severe, persistent or pervasive; and
 - Creates an unreasonable interference with the individual's work or educational experience



What is Discrimination

- Disparate Treatment
 - Disparate treatment is a claim of discrimination in which an individual complains to have been treated differently than other people in a similar situation, but who don't share the individual's protected class.
- Disparate Impact
 - Disparate impact occurs when policies, practices, rules or other systems that appear to be neutral result in a disproportionate impact on a protected group.

Retaliation

- The University does not tolerate retaliation against a community member who has made a good faith claim of discrimination or harassment or who has participated in an investigation of a claim.
- This applies to the Relationship Violence and Sexual Misconduct Policy and our next topic, the Anti-Discrimination Policy.

Case Study: Amir

Amir is a student in a senior seminar class. One day another student offers everyone cookies but Amir declines and says that it is Ramadan and he is Muslim, so he is fasting until sundown. Richard, another student, overhears Amir and begins making comments to Amir about how he thinks Amir is stupid for following Islam. The next class, someone has written “Go Back to Syria, Terrorist Muslim” the board before class.

What do you do about Richard’s comments to Amir?

What do you do about the writing on the board?

Bias Incidents

- A bias incident consists of verbal or non-verbal conduct that is threatening, harassing, intimidating, discriminatory, or hostile and is based on a category protected under the MSU Anti-Discrimination Policy.
- 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 harassment under the ADP.

Bias Incident Protocols

- If there is immediate concern about safety or that a crime may have been committed, contact the police.
- Example of hate crimes that need to be reported to the police:
 - Malicious destruction of property
 - Stalking
 - Ethnic intimidation
 - Assault
- Otherwise, report the incident to OIE.
- Document any physical evidence by photographing it, then cover or remove the offending material.

Case Study: Isabel

Isabel is a new faculty member in your department. After a few weeks of working with you, she discloses that she has very poor vision and has used a screen reader in the past.

- What should you say to Isabel?
- Who should you contact?

Disability/Reasonable Accommodations Policy

- If an employee or student self-identifies as having a disability or requests an accommodation, refer them to the Resource Center for Persons with Disabilities on Campus (RCPD).
- The RCPD can assist with developing a Verified Individualized Services and Accommodations (VISA) plan. Temporary VISAs are called VISTAs.
- The VISA documents the disability and prescribes appropriate accommodations, with opportunity for feedback from faculty if concerns exist for negative impact on course operations.
- Faculty are responsible for maintaining confidentiality and for facilitating accommodations or adjustments outlined on the VISA.
- Visit rcpd.msu.edu for more information.
- Failure to refer to RCPD or make VISA accommodations may be a violation of the ADP.

OIE Complaint Process

- Interview Claimant
- Interview Respondent
- Interview witnesses
- Gather and review evidence
- OIE acts as a neutral third party through the investigation
- Write draft report
- Parties review draft report
- Write final report and submit to parties and appropriate office (Student Life, Academic Human Resources, or Employee Relations)
- “Preponderance of the evidence” standard
- “50% plus a hair”
- An advisor, support person or union representative can attend meetings with OIE
- If there is a finding of violation, Employee Relations would be notified of the finding and the Unit, in conjunction with the applicable HR unit would decide on remedial actions. The individual responsible for the conduct may have the right to challenge any remedial actions taken against him/her under other University procedures.

Relationship Violence and Sexual Misconduct Policy & Anti-Discrimination Policy: Responding, Reporting, and Investigations

Questions?

Thank you!