



RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT TRAINING FOR GRADUATE TEACHING AND RESEARCH ASSISTANTS

PRESENTED BY THE OFFICE OF INSTITUTIONAL EQUITY, JUNE, 2017

TRAINING GOALS

- **Understand** MSU policies and the legal and educational context behind your obligations
- **Respond** appropriately to each type of incident, whether reported or observed
- **Learn** the basics of the OIE review and investigation process

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

Complaints of Sexual Misconduct/Relationship Violence

- 2012-2013 | 115
- 2013-2014 | 127
- 2014-2015 | 186
- 2015-2016 | 386

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Title IX, Education Amendments of 1972**

- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”

- **University policy**

- The University prohibits gender discrimination in any of its programs or activities. Sexual harassment, including sexual assault and other kinds of sexual and relationship violence, is a form of gender discrimination.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **University Policy on Relationship Violence and Sexual Misconduct (RVSM) definitions**
 - **Relationship violence**
 - **Sexual misconduct**
 - **Mandatory reporting**

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

■ Relationship violence

- **Domestic violence:** an act of violence committed by any of the following individuals:
 - A current or former spouse or intimate partner of the victim
 - A person with whom the victim shares a child in common
 - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
 - A resident or former resident of the victim's household (but not roommates)
- **Dating violence:** An act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim that does not fall within the definition of "domestic violence."
- An incident of domestic or dating violence can consist of a single act of violence or a pattern of violent acts that includes, but is not limited to, sexual or physical abuse.
- Emotional, psychological, mental, and fiscal abuse are not covered by the policy but resources are available on campus.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Stalking:** engaging in a course of conduct that is directed at a specific person that would cause a reasonable person to feel fear for herself or himself or for the safety of others, or to suffer substantial emotional distress.
- Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, texts, cell phones, or other similar devices or forms of contact are used. This policy prohibits all stalking, not just stalking that occurs within the context of a relationship.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Sexual violence:** a physical sexual act perpetrated without consent. A number of different acts can fall within the definition of sexual violence, including rape and sexual assault.
 - **Sexual assault:** having or attempting to have sexual intercourse or sexual contact with another individual by force or threat of force; without consent; or where that person is incapacitated.
 - **Sexual intercourse:** vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.
 - **Sexual contact:** intentional contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.
 - **Rape:** sexual penetration, however slight, of another person without that person's consent. Penetration can be of the mouth, vagina, or anus, and can be with a penis, tongue, finger, or foreign object.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Sexual harassment:** unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome behavior of a sexual nature. Sexual harassment violates University policy when:
 1. Submission to such behavior is made, explicitly or implicitly, a term or condition of an individual's employment or status in a course, program, or activity; or
 2. Submission to or rejection of such behavior is used as a basis for a decision affecting an individual's employment or participation in a course, program, or activity; or
 3. Such behavior is so severe, persistent, or pervasive that a reasonable person would find that it:
 - a. Alters the terms or conditions of a person's employment or educational experience, or
 - b. Unreasonably interferes with an individual's work or performance in a course, program, or activity, thus creating a hostile or abusive working or educational environment.
- A person's subjective belief alone that behavior is offensive does not necessarily make that behavior sexual harassment.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- ***Quid pro quo* sexual harassment**
 - “This for that”
 - Unwelcome behavior of a sexual nature where:
 - Submission to such behavior is made, explicitly or implicitly, a term or condition of an individual’s employment or status in a course, program, or activity; or
 - Submission to or rejection of such behavior is used as a basis for a decision affecting an individual’s employment or participation in a course, program, or activity.
 - Examples:
 - A professor telling a student that she will get a higher grade if she performs a sexual favor for him
 - An employer asking an employee out on a date and then, after the employee refuses, the employee does not receive an otherwise deserved promotion

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Third-party sexual harassment**

- The University is responsible for protecting employees and students from third party sexual harassment in the context of a University program or activity.
- Discipline may not be possible, but other corrective action may be expected.
- Refer to OIE for investigation and determination.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

■ **Examples of sexual harassment**

- Sexual violence, including sexual assault, rape, and sexual exploitation
- Threats or insinuations that lead the recipient reasonably to believe that granting or denying sexual favors will affect her or his reputation, education, employment, advancement, or standing within the University
- Sexual advances, sexual propositions, or sexual demands that are not agreeable to the recipient
- Unwelcome sexually explicit material sent by email, text message, or other electronically transmitted communication
- Sexual misconduct such as stalking, cyberstalking, recording or transmitting sexual images without an individual's permission, and voyeurism
- Unwelcome and persistent sexually explicit statements or stories that are not legitimately related to employment duties, course content, research, or other University programs or activities
- Repeatedly using sexually degrading words or sounds to a person or to describe a person
- Unwanted and unnecessary touching, patting, hugging, or other physical contact
- Recurring comments or questions about an individual's sexual prowess, sexual deficiencies, or sexual behavior

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Sexual exploitation:** when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples:
 - Surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved, or in which the person observed or induced to perform such act has not attained 18 years of age;
 - Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved, or in which the person recorded or viewed or induced to perform such act has not attained 18 years of age;
 - Exposing one's genitals or inducing another to expose their own genitals in nonconsensual circumstances, or in which the person induced to perform such act has not attained 18 years of age;
 - Knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge;
 - Inducing incapacitation for the purpose of making another person vulnerable to nonconsensual sexual activity;
 - Arranging for others to have non-consensual sexual contact with a victim; and
 - The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act where such an act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Consent:** the voluntary, willful, and unambiguous agreement to engage in a specific sexual activity during a sexual encounter.
 - Consent cannot be given by someone who is:
 - Sleeping;
 - Unconscious, unaware, or otherwise mentally or physically helpless because of drugs, alcohol, or other contributing factor (“incapacitated”);
 - Unable to understand the nature of the sexual activity due to a mental disease or condition (“mentally incapable”); or
 - Under duress, threat, deception, coercion, misuse of professional authority/status, or force.
 - Consent must be clear and communicated by mutually understandable words or actions. Silence, passivity, the absence of resistance, or the absence of a verbal “no” or “stop” does not imply consent, and relying solely on non-verbal communications may result in a violation of this policy.

CASE STUDY: SAMANTHA

- You are a TA responsible for leading two recitation sections. Samantha, a student in one of these sections, asks to speak to you after class. She shares that her friends Jen and Chris (not students in your sections) have been in an ongoing relationship for a year, but things have gotten “strange” and she isn’t sure with whom to talk to about it. Samantha shares the following story that Jen told her:
- Last night while becoming intimate, Jen stopped and told Chris that she didn’t feel like having sex that night. Chris continued to touch Jen, telling her that it was unfair to get him all excited like that, and that they’d had sex plenty of times before. Chris continued to touch Jen, and Jen again told him she didn’t feel like it and then Jen became silent. Chris continued his advances and thinking that Jen had given consent proceeded to have sex with her.

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Incapacitation:** a state where an individual cannot make an informed and rational decision to consent to engage in sexual activity because:
 - the individual lacks conscious knowledge of the nature of the act (e.g., to understand the “who, what, where, when, why or how” of the sexual interaction); or
 - is physically helpless; or
 - is asleep; or
 - is unconscious; or
 - Is otherwise unaware that sexual activity is occurring.
- Intoxication does not equal incapacitation

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Alcohol-related issues**

- **What if both parties are drunk?**

- Being intoxicated or impaired by drugs or alcohol is never an excuse for misconduct and does not diminish one's responsibility to obtain consent.
 - Evaluating incapacitation also requires an assessment of whether a respondent knew or should have known that the claimant was incapacitated when viewed from the position of a sober, reasonable person.

- **University and State of Michigan alcohol/substance amnesty policy**

- Students who report relationship violence or sexual misconduct **will not** be disciplined by the University for a violation of the University's drug and alcohol possession or consumption policies that may have occurred in connection with the reported incident.

CASE STUDY: KATY

- You are a TA responsible for leading a laboratory section. One of your students, Allen, believes that his friend Katy (also in your class) may have been sexually assaulted. Katy has missed several classes. Allen tells you that Katy has been acting “strange” whenever she is around him. Allen goes on to tell you that he called Katy and asked what's been going on with her lately. Katy told him that she was drinking at a party off campus two weeks ago and that she deserved everything that happened to her that night because she should not have been drinking. Allen shared all of this with you when he came to your office hours. You reach out to Katy and she informs you that she does not want to speak with you.

CASE STUDY: BLAINE

- You are a TA assigned to work for 3-5 hours a week in a tutoring center open to undergraduate students in the evenings. You see a lot of undergraduate students each week in the center, however Blaine comes fairly frequently for help with problem sets.
- It is the weekend and you show up at a party thrown by a group of graduate students in your department. Coincidentally Blaine is there as well. He has had a lot to drink and asks you to take him home. You don't want him to walk home in his condition so you give him a ride. Once in the car, Blaine says, "why don't you come in for a drink?". You say no, you need to get home and it would not be appropriate given that you are Blaine's TA. In response, Blaine threatens to disclose to University administration that you were partying with a student of yours.

CASE STUDY: GABRIELA

- You are a senior TA in your department and as a result have been assigned to teach your own section, under the supervision of the instructor of record, Dr. Mehan. You have a student, Gabriela, that self-identifies as a lesbian and is dating another female student in your section. After reviewing the roster for your section, Dr. Mehan mentions that Gabriela is also working as an undergraduate research assistant on a project with her and a colleague in another department. Several weeks into the semester, Gabriela comes to your office hours quite upset. She proceeds to tell you how Dr. Mehan frequently talks about how she thinks Gabriela is “gross” and she thinks Gabriela is “living in sin” and doesn’t think she should have to use the same bathroom as Gabriela. Gabriela tells you that while Dr. Mehan’s comments are hurtful, she doesn’t want any action taken because she is afraid that Dr. Mehan will retaliate against her by cutting her hours as a research assistant or firing her. What should you do about Dr. Mehan’s treatment of Gabriela?

POLICY ON RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT (RVSM)

- **Mandatory reporting**

- **Where to report**

- Discrimination and harassment (including sexual harassment): OIE
 - Sexual misconduct, relationship violence, and stalking: OIE and MSUPD

- **Talking to staff and students about mandatory reporting**

- Begin your professional relationship with the information that you are a mandatory reporter and are required to report discrimination, harassment, sexual misconduct, relationship violence, stalking, and bias incidents to OIE and, if applicable, MSUPD.
 - Explain that the process is required by University policy and law to protect members of the University community.

WHAT IS MY ROLE?

DO

- Listen and offer help and support.
- Encourage the person to:
 - Seek medical attention and talk with a confidential resource for support.
 - Preserve evidence.
 - Access supportive services and resources available on campus, including confidential counseling and advocacy services.
 - Consider requesting interim and protective measures.
- Explain your duty to report and that you cannot promise confidentiality.
- Help the individual understand what happens when a mandatory report is made and how you can continue to support them.
- Inform the person of their right to file a criminal complaint and/or seek an order of protection or other similar lawful order.
- Let students reporting their concerns to you know that OIE and the MSU Police will not notify their parent or guardian unless they are a minor.
- Respect privacy and tell only those who need to know for reporting purposes.
- If there is an allegation against someone in your department, keep the matter as private as possible.
- Keep OIE up to date about any ongoing concerns or new developments.

DON'T

- Don't try to investigate.
- Don't try to determine if a crime or violation of policy occurred.
- Don't try to determine if a sexual encounter was/wasn't consensual.
- Don't push for information an individual is not comfortable sharing.
- Don't alter or remove a student or employee from their work, living, or academic situation. Always contact the OIE if you believe alterations need to be made.

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■ Interim measures

- OIE may implement interim measures after receiving a report of a potential RVSM policy violation. OIE will notify you if it needs your assistance in implementing an interim measure.
- 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, academic accommodations, counseling services, and other accommodations.
- Interim measures are instituted immediately upon request by the claimant and remain in place while the investigation is being conducted.

THE OFFICE OF INSTITUTIONAL EQUITY (OIE)

- **What is OIE?**

- The Office of Institutional Equity (OIE) is responsible for ensuring compliance with the RVSM and the ADP
- OIE responds to and investigates concerns of discrimination, harassment, and potential Title IX violations

- **OIE contact information**

4 Olds Hall

(517) 353-3922

oie@msu.edu

oie.msu.edu

titleix.msu.edu

- **MSU's Title IX and ADA Coordinator:** Jessica Norris, jrnorris@msu.edu

THE OFFICE OF INSTITUTIONAL EQUITY (OIE)

- **Formal investigation process**
 - OIE acts as a neutral third party through the investigation
 - Investigation timeline: approximately 60 days, with some exceptions for good cause
 - An advisor, support person or union representative can attend meetings with OIE
 - “Preponderance of the evidence” standard = “50% plus a hair”
 - Process:
 - Interview Claimant
 - Interview Respondent
 - Interview witnesses
 - Gather and review evidence
 - Write draft report
 - Parties review draft report
 - Write final report and submit to parties and appropriate office (Student Conduct, Academic Human Resources, or Employee Relations)

THE OFFICE OF INSTITUTIONAL EQUITY (OIE)

■ **Assuring fairness to all parties**

- OIE conducts each investigation in an impartial, fair, prompt, reliable, adequate, and unbiased manner.
- All respondents will have the opportunity to provide a full response to all allegations.
- Both parties have the opportunity to provide any documentation, names of witnesses, and other information relevant to the investigation.
- Both parties will receive written notice of the outcome of OIE's investigation.
- Both parties, if students, will have the opportunity to challenge OIE's decision.
- 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.
- **Anti-retaliation policy:** 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.

THE OFFICE OF INSTITUTIONAL EQUITY (OIE)

- **After the investigation**
 - Challenge and appeal process
 - Discipline determined by the appropriate office if a violation is found
 - Possibilities:
 - Probation
 - Removal from housing
 - Counseling
 - Suspension
 - Dismissal
 - Employment termination
 - Etc.

QUESTIONS?

- **OIE contact information**

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- Thank you!