

Conversation with President Samuel L. Stanley Jr.

Federal Review Agreements

September 23, 2019

Federal Review Agreements

- *U.S. Department of Health and Human Services (DHHS) Office for Civil Rights (OCR) Resolution Agreement (8/12/19)*
- *U.S. Department of Education, Office for Civil Rights (OCR) Resolution Agreement (9/5/19)*
 - *Letter of Findings*
- *U.S. Department of Education Clery Act Compliance Division Settlement Agreement (9/5/19)*

Blueprint for Action

- ***MSU Our Commitment website – Dashboard with frequent updates to MSU’s progress***
- ***Oversight Committee established by President Stanley***
 - ***Responsible for all the needed changes at MSU and reports directly to the President***
 - ***Marilyn Tarrant*** – team chair and associate vice president for the Office of Audit, Risk and Compliance (OARC)
 - ***Shannon Torres*** – assistant general counsel
 - ***David Weismantel*** – university physician and director of the Student Health Center
 - ***Rebecca Campbell*** – chair of the Relationship Violence and Sexual Misconduct Expert Advisory Workgroup, psychology professor and recently appointed special advisor to the president on RVSM issues
 - ***Andrea Munford*** – lieutenant with MSU Police Department’s Center for Trauma-Informed Investigative Excellence, also recently appointed as special advisor to the president on RVSM issues

U.S. DHHS OCR Agreement

Agreed-upon revisions recommended enhance the many protections and policy improvements MSU has made since Nassar's arrest including:

- *a [chaperone policy](#) established in April 2017 which requires chaperones for sensitive treatments and when minors are involved*
- *a triage protocol to review all reported allegations or concerns of inappropriate practitioner-patient and practitioner-student interactions*
- *a [consent to treat form](#) reviewed during patient registrations*

U.S. DHHS OCR Resolution Agreement

Improvements Required Include:

- *Revise & clarify the Notice of Non-Discrimination*
- *Revise policies and procedures*
- *Designate Civil Rights Specialists at clinics*
- *Engage a dedicated health care investigator including grievance procedures and form*
- *Mandatory training – HealthTeam services & facilities*

U.S. Department of Education's OCR Agreement

MSU already has made progress in several areas identified by the Department of Education including:

- *MSU's Office of Civil Rights and Title IX Education and Compliance reports directly to president. No outside units or individuals, including the President's Office, have authority to influence the investigative process. (Began 2018; Section 1)*
- *Student-athletes receive targeted training about relationship violence and sexual misconduct as well as anti-harassment from the Office of Prevention, Outreach and Education. (Began 2018; Section IV-B)*
- *The Youth Programs Director provides training to anyone managing youth programs on campus that includes information about reporting requirements, reporting methods and recognizing signs of child abuse. In addition, camp leaders complete specialized training for their staff. (Began 2017; Section V, as well as Sections IV, VI and VII of the Clery agreement)*
- *Trustees and the president receive regular notification about the status of Office of Institutional Equity investigations of employees as well as copies of final reports. (Began 2018; Section II-B)*
- *The university has broadened and improved the required relationship violence and sexual misconduct training for members of the campus community. (Began 2017; Section IV)*
- *MSU established mandatory reporting as a requirement of employment in 2015. The details are outlined in the RVSM policy. (Sections II-C and II-H)*

U.S. Department of Education's OCR Resolution Agreement

MSU will begin taking the new steps outlined in the agreements including:

- *MSU will review the actions of current and former employees connected to the Nassar and William Strampel cases and determine any appropriate discipline. (Section III)*
- *While MSU has an established procedure prohibiting medical experts with a conflict of interest to be used as witnesses in OIE investigations, the procedure will be expanded to include other scientific experts. (Began 2018; Section II-E)*
- *Personnel files managed by human resources will include notations regarding any final Title IX reports to help identify potential patterns of behavior. (Section II-J)*
- *MSU will post key information determined by OCR on its home page, including a link for current and former students, faculty and staff to report abuse by Nassar. (Sections II-A and II-I and Section VI-A)*
- *Earlier in 2019, MSU hired a campus equity navigator to help assist in identifying and obtaining accommodations as well as interim measures for those impacted by RVSM. MSU also hired a climate specialist who works to oversee climate concerns specific to a college or unit. (Section IV)*
- *Following a climate assessment involving the faculty, staff and students in the College of Osteopathic Medicine completed by the Office of Prevention, Outreach and Education, the climate specialist is working with the college to continue assessment and take appropriate, responsive actions. (Began 2019; Section IV-A)*

Letter of Findings

- *MSU officials learned of concerns brought against Strampel during performance reviews in 2005, 2010, 2015*
- *Former members of leadership failed to take appropriate action on behalf of the university to address reports of inappropriate behavior and conduct, specifically related to Strampel*

What is the Clery Act?

- *Purpose: to provide parents, students, and employees with accurate information about campus security and crimes*
- *Covers public and private institutions under Title IV of the Higher Education Act*
- *Enforced by the U.S. Department of Education Clery Act Compliance Division, housed in Federal Student Aid*
 - *Fines: Up to \$57,317 per violation*
 - *Other enforcement tools related to federal aid certification*

U.S. Department of Education Clery Act Compliance Division Agreement

MSU already has made progress in several areas identified by the Department of Education including:

- *The individuals and positions identified as MSU Campus Security Authorities – those individuals who may receive reports of crimes and incidents MSU is required to report – receive mandatory, annual training as well as updates on policies, procedures and requirements. (Section III)*
- *The MSU Behavioral Intervention Team and Behavioral Threat Assessment Team actively seek to assist community members in need and provide potentially life-saving assistance. (Section II)*
- *MSU buildings on the Detroit, East Lansing, Grand Rapids, Macomb and Troy campuses have been identified and classified in accordance with the geography definitions under the Clery Act by the Land Management Office and Clery Coordinator. (Section V)*
- *Clery Act compliance requirements at MSU are overseen by the Clery Compliance Steering Committee and the Clery Compliance Committee with representation from multiple units involved in campus safety including crime prevention and environmental health. (Section II)*

U.S. Department of Education Clery Act Compliance Division Settlement Agreement

MSU will begin taking the new steps outlined in the agreements including:

- *MSU will create a position, reporting to the associate vice president for the Office of Audit Risk and Compliance, to assist with Clery Act compliance and the implementation of changes to Clery Act-related policies, practices and procedures. (Section I)*
- *New notification procedures and requirements to the Department of Education will be implemented. (Section IV), (Section IX), (Section X)*
- *MSU will conduct five assessments in the next three years as well as assist the Department of Education with at least three on-site compliance checks, to identify and mitigate potential Clery Act violations. (Sections XI and XIII)*
- *Notifications will be issued each year to faculty and staff encouraging the reporting of suspected criminal activity or misconduct with clear instructions for how to report including the misconduct hotline. MSU's efforts to protect employees from retaliation or intimidation, including the whistleblower protection policy, will also be shared. (Section III)*
- *Procedures and protocols regarding campus safety, crime prevention, fire safety and substance abuse prevention will be reassessed to ensure compliance with all applicable federal regulations. (Section VIII)*
- *Payment of \$4.5 million fine, the highest amount ever levied associated with the Clery Act.*

Misconduct Hotline

- *Misconduct Hotline provides an anonymous method to report known or suspected misconduct.*
- *Misconduct related to the following areas can be reported through the hotline: fiscal, conflicts of interest, employment, medical/HIPAA, research, safety, athletics, discrimination/harassment, privacy, retaliation, and any other issue that does not fit another category.*
- *MSU Website <http://misconduct.msu.edu/>*



IT'S YOUR CALL

If you have a concern about misconduct, don't keep it to yourself. Discuss it with a supervisor, or contact the misconduct hotline online or by phone. Anonymous reports can be made 24 hours a day, seven days a week.

Report misconduct related to:

- Athletics
- Conflicts of interest
- Discrimination/harassment
- Employment
- Fiscal
- Medical/HIPAA
- Privacy
- Research
- Retaliation
- Safety

Or any other compliance issues that do not fit into these categories

The Misconduct Hotline is not for reporting emergencies. If you need immediate assistance, please dial 9-1-1.

Misconduct Hotline
1-800-763-0764
misconduct.msu.edu

Dashboard – University Compliance with Federal Reviews


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Our Commitment

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University Compliance with Federal Reviews

On September 5, 2019 President Stanley announced several actions taken in response to the investigations recently concluded by the U.S. Department of Education's Office of Civil Rights and Clery Act Compliance Division and the Department of Health and Human Services (DHHS). To ensure transparency and accountability, the University has provided this dashboard to monitor our progress towards the agreement requirements.

Office of Civil Rights Title IX Review - Resolution Agreement

The University, or MSU, has entered into a Resolution Agreement to resolve the Department of Education, Office of Civil Rights investigation and to ensure the University's compliance with Title IX of the Education Amendments of 1972. [Read the Resolution Agreement](#)

U.S. DHHS Office of Civil Rights - Voluntary Resolution Agreement

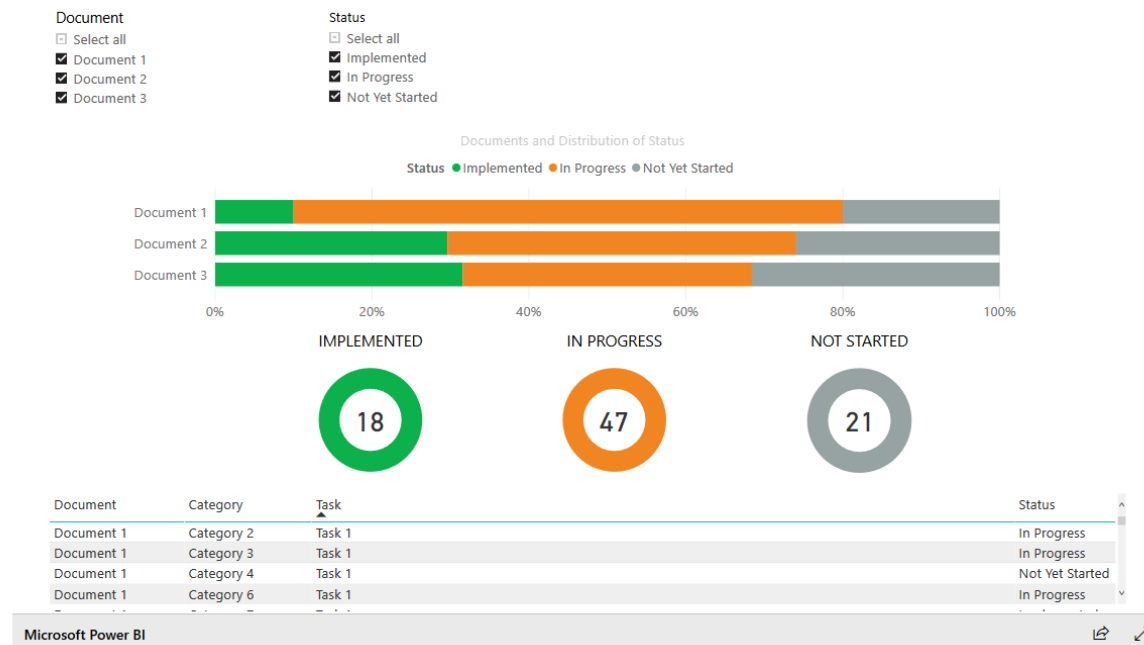
The University, or MSU, has entered into a Voluntary Resolution Agreement as a result of an investigation to determine if its doctors' offices and clinics violated Title IX of the Education Amendments of 1972 and Section 1557 of the Affordable Care Act. [Read the Resolution Agreement](#)

Department of Education Clery Act Compliance - Settlement Agreement

The University, or MSU, has entered into a Settlement Agreement to resolve the Department's open Campus Crime Program Review and the associated preliminary findings. [Read the Settlement Agreement](#)

Dashboard – University Compliance with Federal Reviews

Compliance Dashboard



The Office of Audit, Risk and Compliance is monitoring the compliance status of MSU actions with requirements of each agreement.
[View OARC's compliance scorecards.](#)

Scorecard – University Compliance with Federal Reviews

Department of Education Office of Civil Rights Resolution Agreement Compliance Scorecard

Academic Year 2019-2020

As of: 9/19/19

SCOPE:

This compliance review was conducted to validate university compliance with requirements of the resolution agreement between the U.S. Department of Education Office of Civil Rights and Michigan State University (the university).

The objectives of this review were:

- To determine if the agreed upon currently due obligations are substantially completed;
- To determine if the completed obligations comply with resolution agreement requirements;
- To determine if output of completed obligations are supported by appropriate documentation.

In order to accomplish our objectives, we:

- Categorized all obligations into actionable steps. The document contained a total of 41 actionable steps that were incorporated into our review.
- Identified individuals responsible for ensuring that obligations were being met.
- Interviewed responsible parties to determine the status of the obligation.
- Reviewed supporting documentation to validate completion of obligations in accordance with agreement requirements.

CONCLUSIONS:

Based on our review of the resolution agreement and actions taken towards the obligations within we confirmed that the obligations for the period 9/5/2019 - 9/19/2019 were met and supported by comprehensive and appropriate supporting documentation. Our review did not identify any material inconsistencies with resolution agreement requirements. An updated progress measurement of the obligations by category is included below:

<u>MSU Status Key:</u>	
G	Implemented: action completed, no additional reporting requirements.
O	In Progress: action initiated, development/improvement continues.
GY	Not Yet Started: action not initiated but not yet due (or action is contingent).

Scorecard – University Compliance with Federal Reviews

Action Item	Task	MSU Status	Comments
Title IX Structure To ensure that the university's Office of Civil Rights and Title IX Education and Compliance has the independent authority to address and respond appropriately to reports of sex discrimination and to avoid potential conflicts of interest MSU will amend its Title IX investigation structure.			
A	The university will require any individual employed in Title IX Office who previously provided legal representation on Title IX matters to recuse themselves from Title IX matters on which they previously provided legal advice or exercised oversight over and title IX matters that involve one or more of the same parties as a matter on which they previously provided legal advice or exercised oversight over. <i>Reporting Deadline: January 6, 2020</i>		
B.1	The university will continue to ensure none of its Title IX coordinators, Office of Institutional Equity (OIE) investigators, persons making decisions regarding whether a Title IX or University policy violation occurred, or any medical or scientific expert the University calls upon for an independent opinion in the course of a Title IX investigation, have a conflict of interest or bias for or against complainants or respondents. <i>Reporting Deadline: January 6, 2020</i>		
B.2	The university will revise its existing conflict of interest policy to include medical and scientific expert witnesses. Policy must state that an actual or apparent conflict of interest shall prohibit service as an expert absent a waiver by all parties. <i>Reporting Deadline: January 6, 2020</i>		
C	The university will review the oversight structure of the Title IX Office and make any necessary changes to ensure authority and independence is proper. The university must ensure that the Title IX Office continues to report directly to the President; oversees all of the university's Title IX investigations and coordinates Title IX compliance; and is free from undue influence or pressure from other individuals or units within the university. <i>Reporting Deadline: January 6, 2020</i>		

Summary – Your Action Steps

- *Tone at the top is fundamental (walk the walk and talk the talk)*
- *Individual responsibility (you represent our institution)*
 - *Hold to our core values*
 - *Maintain compliance oversight (do the right thing)*
- *Encourage speaking up – then listen carefully*
 - *No retaliation*
- ***Be a courageous leader who can achieve culture change and build a community with a foundation of respect and accountability***