

ATTORNEY INFORMATION FORM

MSU Office of Institutional Equity

OIE ROLE

- We are neutral. OIE's role is to conduct an impartial, fair, and unbiased investigation into allegations of violations of the University's Policy on Relationship Violence & Sexual Misconduct ("Policy").
- OIE investigators cannot provide advice, suggestions, or support, but can provide referrals to the resources listed on the Claimant and Respondent Resource Guides.
- At the conclusion of the investigation, OIE's role is to determine whether or not the Policy was violated. Where OIE concludes a Policy violation occurred, OIE will refer the case to the appropriate office for sanctioning/disciplinary action. If OIE determines that the Policy was not violated, it means that the standard under the Policy was not met or there was insufficient information to establish that the Policy was violated. This should not be mistaken for OIE concluding that an individual did/did not experience an incident.

ATTORNEY ROLE

- An attorney may act as an advisor/support person for a party. The party has the right to bring an advisor or support person of their choice to all meetings with OIE staff. An advisor may be dismissed if they attempt to directly participate in the proceedings or are otherwise disruptive, in the judgement of the investigator.
- You may provide the party you represent with advice and support during meetings with OIE, when reviewing the preliminary investigative report, and through the sanction and appeal phase of the process.
- If the party you represent is a student, the student must complete a FERPA Release in order to permit you to access information from the student's educational record, including records and communications pertaining to the OIE investigation. <https://reg.msu.edu/ROInfo/Notices/PrivacyGuidelines.aspx>
- Students who have completed a FERPA Release may request that OIE copy you on emailed communications.
- OIE will not speak directly with a party's attorney regarding the facts of a case without the party present or the party's written consent.
- Attorneys may direct legal questions regarding the OIE investigatory process, student conduct process, or employee relations process to the Office of the General Counsel.

Office of the General Counsel

494 Administration Building
426 Auditorium Road
East Lansing, MI 48824
(517)353-3530

COLLECTION AND SHARING OF INFORMATION

Both the claimant and the respondent will have the opportunity to provide a statement, submit evidence, and identify potential witnesses. **All information must be submitted by the deadline for review of the preliminary investigation report. Information provided by the parties is not confidential, and may be disclosed to the other party and included in the investigation report. Information provided by the parties may also be disclosed in response to subpoenas by law enforcement agencies and Freedom of Information Act Requests received by the University.**

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INVESTIGATION PROCESS

The University has an obligation to conduct a prompt, adequate, reliable, and impartial investigation to determine what occurred and then to take appropriate steps to resolve the situation when it learns of an incident of sexual misconduct, stalking, or relationship violence. An investigation typically involves the following:

- Interviews of the Claimant (the individual bringing the complaint), the Respondent (the individual responding to the complaint), and any relevant witnesses;
- Collection of any relevant evidence and information;
- While the parties are primarily responsible for providing information and evidence, OIE, to the extent possible, will gather evidence relevant to the investigation that may be available and accessible within the University context;
- The Claimant and Respondent are both provided the opportunity to submit questions through the investigator to be asked of the other parties;
- Preparation of a preliminary investigation report that describes all of the evidence collected. The Claimant and the Respondent will both have an opportunity to review the preliminary investigation report and provide feedback prior to the issuance of the final investigation report; and
- Preparation of the final report that includes a determination of whether there has been a violation of the Policy. Determinations are made based on the totality of the circumstances weighing all relevant information. In cases where there is insufficient evidence for the investigator to determine if the policy was violated, the investigator will conclude there was no violation of the Policy.

INVESTIGATION TIMELINE

Every reasonable effort will be made to complete a formal investigation within 60 calendar days; however, delays are often necessary based on a variety of factors including availability of parties, witnesses, and documents, and the occurrence of academic breaks during the year. OIE will provide notice if the investigation timeline is extended beyond 60 calendar days. The 60 calendar day period is inclusive only of the OIE investigation process and does not include the period for sanctioning and appeal processes. Please note that the sanction panels do not convene during academic breaks and University closures.

INVESTIGATION HEARING

As part of the investigation process, both parties have the opportunity to meet with an OIE investigator for an investigation hearing. This is each party's opportunity to be heard and tell their side of the story. Either party may submit questions in writing to be asked of the other party. The investigator will ask the questions during the investigation, provided that the questions are relevant to the investigation and issues of credibility.

Either party may submit questions at any time up to the deadline for review of the preliminary investigation report. The opportunity to ask questions may not be used to harass or intimidate the other party.

INTERIM AND PROTECTIVE MEASURES

Interim measures are services, accommodations, and other assistance implemented when deemed appropriate by OIE upon notice of an incident or during the course of an investigation. Either party may request interim measures, and OIE will implement reasonably available interim measures, which may be both remedial (designed to address safety and well-being and continued access to educational opportunities) or protective (involving action against a respondent). Interim

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INTERIM AND PROTECTIVE MEASURES (CONTINUED...)

measures are implemented immediately upon approval from a University official and remain in place until the investigation and adjudication process is concluded.

Interim measures may include the following where appropriate:

- Academic assistance such as:
 - Discrete professor notification regarding absences
 - Schedule changes
 - Course load reductions
 - Withdrawals
 - Course retakes
 - Coordinating extensions
- Alternative housing placement
- Protective measures such as:
 - University no-contact directive
 - Removal of directory information
 - Removal of parties from campus
- Alternative work schedules/locations
- Transportation information
- Referrals to on- and off-campus services

As a protective measure, the University may also issue a “no-contact” directive between the claimant and respondent or limit an individual’s or organization’s access to certain University facilities or activities pending resolution of the matter. The University might also impose an interim disciplinary suspension, suspension from employment, or other remedies which can be tailored to the involved parties.

Individuals are encouraged to request any services or protective/interim measures needed. University officials will review all requests and determine if the requested assistance is appropriate. The measures are available even if the incident is not reported to law enforcement or the claimant declined to participate in an OIE or law enforcement investigation. To request assistance with interim and protective measures, contact OIE at (517) 353-3922 or oiie@msu.edu.

In addition to requesting interim measures through the University, individuals also have the right to request an order of protection, no-contact order, restraining order, or other similar lawful orders issued by a criminal, civil, or tribal court. A Personal Protection Order (PPO) is a court-issued order to stop threats or violence and is enforced by the police. OIE can provide referrals to resources that offer advocacy services including assistance in obtaining a PPO.

AMNESTY FOR DRUGS OR ALCOHOL POSSESSION AND CONSUMPTION VIOLATIONS

The University encourages students to report all incidents of relationship violence or sexual misconduct. Therefore, 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. Students are also protected by a Michigan law that provides amnesty for alcohol-related crimes if an underage individual, after consuming alcohol, presents (or accompanies an underage person presenting) at a health facility or agency for treatment or observation as a result of sexual assault.

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PREPONDERANCE OF THE EVIDENCE

The University uses the preponderance of the evidence standard to review allegations of violations of the Policy. This standard means that, in determining whether the Policy has been violated, OIE staff will assess whether, based on the evidence, it is more likely than not that the respondent engaged in the prohibited conduct. This standard is the same standard applied to all other student conduct matters at the University.

SUPPORT RESOURCES

In an effort to support all individuals engaged in the University review and investigation process, resources are provided to the parties in resource guides made available in the information packets they receive and are also available at oie.msu.edu and titleix.msu.edu. Most of the resources listed are available at no cost.

PROHIBITION ON RETALIATION

Michigan State University's Relationship Violence and Sexual Misconduct Policy prohibits retaliation against individuals who provide information to the University, bring forth a complaint, or who are asked to cooperate in an investigation. All individuals have a right to be protected from retaliation related to the information shared with the University.

If the party you represent is experiencing retaliation, they should contact OIE at (517) 353-3922 immediately so that we may address it promptly.

Additionally, federal civil rights laws, including Title IX, make it unlawful for the University to retaliate against an individual who brings concerns about possible civil rights violations to its attention. It is also unlawful for the University to retaliate against an individual (such as a witness) for participating in the complaint or investigation process.

If the University is made aware of retaliation against a claimant, witness, or respondent by other students, employees, or third parties, the University will immediately investigate to determine what has occurred. MSU will take strong responsive action if retaliation occurs.

POLICE NOTIFICATION

MSU's response to this report is independent of any criminal process. Claimants may pursue complaints with OIE and police simultaneously. Claimants also have the right to request assistance in notifying law enforcement authorities and the right to request an order of protection, no-contact order, restraining order, or other similar lawful orders issued by a criminal, civil, or tribal court.

The MSU Police Department and OIE independently investigate complaints of relationship violence and sexual misconduct. The Police investigate to determine whether there has been a violation of criminal laws. OIE investigates to determine whether there has been a violation of University policy. The investigations proceed concurrently, and the outcome of one investigation does not determine the outcome of the other investigation.

The MSU Police Department shares information about ongoing investigations with OIE to the extent that sharing such information will not interfere with law enforcement proceedings.

REASONABLE ACCOMMODATION

If your client is an individual with a disability and needs accommodation to fully participate in the complaint, investigation, or student conduct process, they should contact the Resource Center for Persons with Disabilities at (517) 884-7273.

Updated 1/10/2018