

**HUSCH BLACKWELL**

# MICHIGAN STATE UNIVERSITY

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REPORT 2 OF 2 [PRELIMINARY REPORT]  
Review of Michigan State University's  
Title IX Program

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March 2018

# Preliminary Draft Disclaimer

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This phase 2 report relies on significant input from Michigan State University (“MSU”) community members who participated in more than four full-day discussion group sessions and two evening sessions in the fall of 2017 and winter of 2018. At the conclusion of those sessions, several students and faculty members requested additional time with us to provide further comments intended to help shape this report.

This report was originally scheduled to be released by the end of the spring semester. However, MSU has requested that we release a “preliminary draft” in effort to inform reforms that are already underway while also allowing time for us to gather additional input from members of the MSU community that will be incorporated into a final draft. We will work with MSU to schedule at least one additional full-day visit and one evening session on campus to meet with faculty, students and other interested University community members. Information gleaned from these additional sessions will be incorporated into our final report, which we will release later this spring.

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# Executive Summary

# Executive Summary

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Michigan State University (“MSU” or “University”) engaged Husch Blackwell to conduct a two-phase Title IX review related to the University’s efforts to address and prevent sexual misconduct. The first phase, completed in November 2017, consisted of a detailed review of MSU’s Title IX-related policies and procedures to determine whether they meet current legal requirements. We concluded that those policies and procedures—which underwent significant revision in 2015 and again in 2017—not only satisfied applicable legal mandates, but also contained a number of leading-edge practices that other schools would do well to consider as models for their own programs.

In this second phase of our review, we evaluated the effectiveness of MSU’s Title IX-related education and prevention programs and its support services, as well as its broader awareness, engagement and outreach efforts. This phase 2 report relies on an extensive review of materials provided by the University, as well as significant input and feedback from MSU community members who participated in discussion group sessions over four full-days and two evening sessions that took place in the fall of 2017 and winter of 2018.

While MSU scored high marks on compliance with legal requirements in phase 1, we believe that it has been less successful in implementing some of its education and prevention programs and, in particular, in promoting awareness of, and trust in, its policies and procedures. Indeed, based on our discussions with members of the University community, we found significant misunderstandings and misinformation about those policies and procedures, including what specific objectives those policies were designed to address. Further, participants expressed confusion regarding the role and leadership structure of the Office of Institutional Equity—responsible for carrying out MSU’s Title IX functions—as well as the role and responsibilities of other senior administrators who help support MSU’s Title IX efforts. It seems that some within the University community may not be aware of the related resources and services that are available, or of how to access those resources when needed. With the exception of the staff and students who work, or are actively engaged, in the Title IX space, this knowledge gap is a theme we heard repeatedly in both our fall and winter discussion groups on campus. Finally, while MSU’s training programs were designed with the expectations of its 2015 Office for Civil Rights Resolution Agreement in mind, many participants in our discussion groups expressed concern that these programs are perceived as merely a “check-the-box” exercise.

Importantly, these findings came as no surprise to the individuals who work within MSU’s Title IX program. A recurrent theme we heard from these individuals is that the concerns and recommendations expressed by members of the MSU community have been previously identified by their offices and by the advisory committees that support the Title IX program. In essence, the issues identified in this report do not reflect a “blind spot” on behalf of MSU’s Title IX program team.

We wish to emphasize that this second report was prepared during a time when the University’s leadership, community, and culture were all under intense scrutiny resulting from MSU’s response to the numerous incidents involving Larry Nassar. Nassar, the former gymnastics team doctor, was recently convicted of multiple counts of sexual assault and child pornography and has been sentenced to multiple lengthy prison terms.

We also note that, given this active controversy, participants in our discussion groups, understandably, wanted to go beyond the four corners of our review to express broader concerns. Many of them stated that their motivation for joining the sessions was out of concern and respect for Nassar’s victims. Those participants wanted to “do their part” to ensure that similar events never occur again at the University. Others participated as survivors and as friends of survivors, who wished to advocate for a better approach. Some expressed distrust of MSU’s leadership and were skeptical of the likelihood of meaningful change. All of them were forthcoming with us, and they were generous with their time. They were respectful of each other. And they want to see genuine change in campus culture and climate. Out of respect for their contributions—and in an effort to support MSU as it works to rebuild trust amongst its community in the months and years ahead—we have summarized their added input in our report. We recommend that University leadership consider deeper inquiry into the critical issues they raised.

# Introduction

# Introduction

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At its core, Title IX is a civil rights law intended to help eliminate sex discrimination and gender inequity in America's schools, colleges, and universities. While the reach of Title IX has historically provided protection from various forms of sex discrimination, including sexual harassment, sexual violence, and gender stereotyping, up until the last decade, much of the nation's attention to Title IX issues related to inequity in athletics, particularly with respect to facilities, scholarships, and sporting opportunities for female athletes.

In 2011, a sea change occurred when the primary agency charged with enforcing Title IX, the U.S. Department of Education's Office for Civil Rights ("OCR")<sup>1</sup>, issued the first of several guidance documents that set sweeping new compliance expectations for how colleges and universities prevent and address allegations of sexual misconduct. Since that time, the higher education sector has substantially grown its Title IX infrastructure to (1) support prevention, awareness, and educational programming, (2) provide resources to impacted parties, and (3) refine institutions' investigation and adjudication processes.

In our experience working with colleges and universities across the country on Title IX policy development, training, investigations and litigation, we have observed a key trend: many institutions' Title IX policies and practices are evolving and improving. With every case, with every training, institutions can improve upon prior practice and enhance their policies to better reflect their institutional values and fit their communities' needs. For this reason, many institutions of higher education have embraced a culture of continuous self-analysis and improvement in this area.

To this end, MSU engaged Husch Blackwell to perform a two-phase Title IX review of its efforts to prevent and address sexual misconduct and its compliance with applicable legal requirements, agency guidance, and best practices. During the first phase of our review, we conducted a concentrated compliance analysis of MSU's Policy on Relationship Violence and Sexual Misconduct (the "RVSM Policy" or "policy"), together with its appendices<sup>2</sup> and other information published by MSU on its Title IX webpage.<sup>3</sup>

In other words, the first phase of the review focused primarily on the documents that serve as the foundation for MSU's Title IX compliance. This included a focused review to determine whether MSU's policies and procedures satisfy applicable laws, comport with the best practices of peer and comparator institutions, and demonstrate leading-edge approaches. Our phase 1 report was released in November 2017, and is available through MSU's Title IX webpage.<sup>4</sup>

In summary, we found that MSU's current Title IX policy and procedures underwent significant, community-driven revisions in 2015, and again in 2017. These changes were a result of a 2015 Resolution Agreement with OCR that contains 30 requirements—not including subparts—relating to what MSU was required to include in its policy and procedure documents.<sup>5</sup>

Further, we concluded that the revised policy and procedures reflect a strong and genuine institutional commitment to combatting sexual misconduct and creating a safe campus environment, as well as complying with Title IX's legal requirements. MSU's policies and procedures are among the most comprehensive and robust we have seen. They provide detailed guidance to claimants, respondents, investigators, and adjudicators and set forth a fair and equitable process for resolving reports of sexual misconduct. Overall, MSU's policies and procedures comply with current legal requirements and agency guidance, and in several places, reflect leading-edge policy concepts that other institutions might consider replicating in their own policies.

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<sup>1</sup> The U.S. Department of Justice shares enforcement authority over Title IX with OCR. See: 2015 Resource Guide, FN 1, page 1.

<sup>2</sup> The policy and related appendices are available at: [https://www.hr.msu.edu/policies-procedures/university-wide/RVSM\\_policy.html](https://www.hr.msu.edu/policies-procedures/university-wide/RVSM_policy.html).

<sup>3</sup> Available at: <http://www.titleix.msu.edu/>.

<sup>4</sup> Our phase 1 report is available at: [http://titleix.msu.edu/information-reports/msu\\_report\\_2017\\_external.pdf](http://titleix.msu.edu/information-reports/msu_report_2017_external.pdf).

<sup>5</sup> Resolution Agreement, OCR Docket Numbers 15-11-2098 and 15-14-2113, page 4, paragraph 7, available at: <https://www2.ed.gov/documents/press-releases/michigan-state-agreement.pdf>.



In addition, based on our discussions with faculty, staff and students, we concluded that there is strong evidence that key components of MSU's sexual misconduct policies and procedures are permeating the campus community. For instance, student participants overwhelmingly reported that they believe their peers understand the concept of "consent;" several were able to quickly recite its definition. Faculty and staff participants reported that they believe most employees understand that they have an obligation to report sexual misconduct of which they become aware.

This second phase of our review goes beyond an evaluation of applicable legal requirements and concentrates on the effectiveness of MSU's: (a) education and prevention programs, (b) support services and resources, and (c) awareness, engagement, and outreach efforts, as they relate to preventing and addressing sexual misconduct. In this report, we first explain the relevant legal requirements that drive these components of institutions' Title IX programs and highlight MSU's offerings for each of these categories. We then summarize feedback that we received from the MSU community members who participated in a series of onsite discussions with us about MSU's Title IX program. We outline a number of recommendations for MSU's consideration and, where relevant, identify practices utilized by peer institutions to support effective programming. Finally, we summarize additional feedback and concerns we received from discussion group participants that go beyond the scope of this report, and recommend that University leadership consider these issues for deeper inquiry in the future.

## Overview of Applicable Law and Guidance

In our first report, we outlined the relevant legal authorities and applicable agency guidance that generally drive the topics that institutions of higher education address in their Title IX policies and procedures. These legal authorities include: Title IX of the Education Amendments Act of 1972,<sup>6</sup> Title IX implementing regulations,<sup>7</sup> Title IX guidance issued by OCR,<sup>8</sup> as well as regulations promulgated by the U.S. Department of Education under the Violence Against Women Act reauthorization of 2013 ("VAWA")<sup>9</sup> and its associated amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").<sup>10</sup> Importantly, these authorities also impose specific obligations on institutions with respect to the topics addressed in the second phase of our review. These requirements are addressed below.

It is worth noting that—and as we covered in detail in our first report—OCR has recently withdrawn two critical guidance documents that have shaped institutions' Title IX programs.<sup>11</sup> While the withdrawn guidance documents are no longer used by OCR for enforcement purposes, they nonetheless contain a number of relevant considerations related to the topics addressed in this report. For that reason, we have also summarized the components of those withdrawn guidance documents that pertain to our phase 2 analysis.

### Title IX

Overall, institutions are charged with implementing training and awareness programs for campus community members regarding the prohibition of sexual harassment and sexual violence. Remaining guidance from OCR specifically speaks to training for employees, including the Title IX Coordinator, and for students. Indeed, institutions must provide training for employees with authority to take action upon learning of sexual misconduct (i.e., "responsible employees"), so those employees "know how to respond appropriately, know that they are obligated to report harassment to appropriate school officials," and are aware of Title IX

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<sup>6</sup> 20 U.S.C. § 1681 et seq.; Title IX also covers other issues such as gender equity in athletics and pregnancy accommodation. These other aspects of Title IX are beyond the scope of this review and are not discussed in this report.

<sup>7</sup> 34 C.F.R. Part 106.

<sup>8</sup> In our phase 1 report, we provided a detailed overview of applicable and recently withdrawn OCR guidance.

<sup>9</sup> 42 U.S.C. §§ 13925 to 14045d; VAWA amended a number of federal laws governing requirements for programs and grants that, for instance: support children and families; provide housing rights for victims of domestic abuse; and seek to eliminate backlogs in rape kit processing; among other things. Our review is limited to the portion of VAWA that amended the Higher Education Act of 1965, 20 U.S.C. 1092(f), also referred to as "the Clery Act."

<sup>10</sup> 20 U.S.C. § 1092(f).

<sup>11</sup> OCR's 2017 Dear Colleague Letter can be found at: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-ix-201709.pdf>; its 2017 Q&A Guidance can be found at: <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>.

issues and the school's procedures.<sup>12</sup> Training for employees should include "practical information about how to identify harassment and the person to whom it should be reported."<sup>13</sup> Designated employees should have adequate training as to what constitutes sexual harassment and how the school's grievance procedures operate.<sup>14</sup> Training serves both preventative and remedial purposes. Training for administrators, teachers, and staff, and age-appropriate classroom information for students can help to ensure that they understand what conduct may be considered to be sexual harassment and that they know how to respond. Training may also be required as a remedial measure to repair specific educational environments when sexual harassment has occurred.<sup>15</sup> Finally, Title IX Coordinators should be sufficiently knowledgeable about Title IX<sup>16</sup> and the school's policies and procedures, as well as other applicable Federal and state laws, regulations, and policies that overlap with Title IX.<sup>17</sup> The Title IX Coordinator should assist in any training provided to the school community, including all employees.<sup>18</sup>

### Best Practices from Withdrawn Title IX Guidance

Although training-specific elements in OCR's earlier guidance have been withdrawn through the agency's 2017 Guidance, many of the training elements included in that earlier guidance reflect industry best practices. For instance, institutions should provide educational programming to students that explains the law and outlines what conduct constitutes sexual violence (including same-sex sexual violence) under the school's policies. Students should be provided information about the institution's definition of consent applicable to sexual conduct, along with examples. In particular, the programming should address how the institution assesses whether conduct was unwelcome (i.e. a "reasonable person" standard) and how the institution determines whether such conduct creates a hostile environment. Students should also be provided with educational programming that informs them of the available reporting options (including formal reporting and confidential disclosure options) and any reporting timeframes set by the institution. Information on how to report sexual violence to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with an institutional grievance should also be included.

In addition to providing programming on the institution's policies, the University should make available information on the grievance procedures used to process sexual violence complaints. This information should include any disciplinary code provisions relating to sexual violence and the consequences of violating them. Notably, institutions should encourage individuals to report incidents of sexual violence to appropriate school officials and law enforcement authorities, and they should provide information about protections against retaliation.

Educational programming should also address the role alcohol and drugs often play in sexual violence incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual violence, as well as provide strategies and skills for bystanders to intervene to prevent possible sexual violence. Additional information on the effects of trauma (including neurobiological changes) should also be conveyed during the educational programming.

### Violence Against Women Act (VAWA) Regulations

VAWA also imposes a variety of training obligations on institutions. Generally, institutions are required to provide comprehensive and integrated programming and to engage in initiatives, strategies, and campaigns that are intended to end dating violence, domestic violence, sexual assault and stalking. Institutional efforts under VAWA should be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome.

VAWA requires institutions to deliver primary prevention and awareness programs for all incoming students and new employees.<sup>19</sup> These programs should explicitly state that the institution prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking. Definitions of domestic violence, dating violence, sexual assault, and stalking in the applicable jurisdiction, along with the definition of consent, in reference to sexual activity in the applicable jurisdiction, should also be provided. These

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<sup>12</sup> 2001 Guidance at 13; available at: <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>.

<sup>13</sup> Id. at 13.

<sup>14</sup> Id. at 21.

<sup>15</sup> Id. at 16, 19.

<sup>16</sup> 2015 Title IX Resource Guide at 16; available at: <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>.

<sup>17</sup> 2015 DCL at 6, 7; available at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.

<sup>18</sup> Id.

<sup>19</sup> 34 C.R.F. § 668.46(j).

programs should identify safe and positive options for bystander intervention, especially how a bystander might prevent harm when there is a risk of domestic violence, dating violence, sexual assault, or stalking against another individual.<sup>20</sup> They should also provide information on risk reduction, including how to recognize warning signs of abusive behavior and how to avoid potential attacks.<sup>21</sup>

Programming should also include relevant VAWA information, such as procedures for investigations and resolutions, the standard of evidence that will be used, possible sanctions and protective measures, reporting options, the importance of preserving evidence, the right to have an advisor during any part of the proceedings, protecting confidentiality, accommodations, available resources for victims, and other relevant information.<sup>22</sup>

Institutions are also responsible for engaging in ongoing prevention and awareness campaigns<sup>23</sup> for students and employees that include the information described above. Unlike Title IX—which does not identify how often training must take place—VAWA requires institutions to provide annual training to institutional officials involved in implementing the institution's VAWA-related topics, as well as how to conduct an investigation and hearing process that protects the safety of victims while ensuring a fair and equitable process for all parties.

## Overview of Materials Reviewed

We reviewed a voluminous set of materials related to MSU's sexual misconduct education and prevention programs, services, and outreach efforts. While later sections of this report provide greater detail on these materials, we have summarized the types of information included in our review here.

### Education and Prevention Training

MSU provided extensive materials for its sexual misconduct education and prevention trainings. These materials include: education and prevention presentation materials; break-out session materials; handouts and resource materials utilized during presentations; take-home materials and resource documents; and survey templates for evaluating the effectiveness of such programming. The materials also included presentation scripts and role-playing scenarios for MSU's primary prevention programming, as well as documents for trainings targeted to special populations, such as international students, the LGBTQ community, MSU student athletes, the Greek community and its leaders, and risk managers. Last, MSU provided access to its online sexual misconduct education and prevention related courses, training video transcripts, and power points slides for in-person presentations.

The University gave us a significant amount of written information relating to its efforts to engage its campus community in Title IX-related activities, consisting, among other things, of emails to the MSU community and student groups and a sampling of flyers and posters about upcoming campus outreach and awareness events, focus group opportunities, and Title IX Coordinator office hours. These communications sought to engage the MSU community in prevention efforts, build participation in focus groups, committees, and awareness activities, and recruit volunteers and peer educators to support MSU's Title IX-related services. They also highlighted reporting options for claimants and the availability of resources and support services.

### Support Services and Resources

With respect to support services and resources, MSU provided background information and flyers covering services that are available to students, staff and faculty, including individual counseling, individual and group therapy, survivor support groups, 24-hour in-person medical advocacy, other advocacy services, MSU's 24-hour sexual assault crisis hotline, and "MSU Safe Place"—a University-sponsored stalking and domestic and dating violence shelter.

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<sup>20</sup> 34 C.F.R. § 668.46(j)(2)(ii).

<sup>21</sup> 34 C.F.R. § 668.46(j)(2)(v).

<sup>22</sup> 34 C.F.R. § 668.46(k).

<sup>23</sup> According to VAWA's regulations, "ongoing prevention and awareness campaigns" means "programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution..." 34 C.F.R. §668.46(j)(2)(iii).

Because some of MSU's education and prevention programming, educator training, and services are grant-funded, we reviewed program guidelines that govern the administration of these grants. We also learned a great deal about these programs from MSU's year-end program reports.

### Awareness, Engagement and Outreach

MSU provided a number of materials related to its efforts to engage the MSU community and seek input on its sexual misconduct policies and prevention efforts. These included contact lists, as well as emails and flyers distributed to solicit participation in various forums and events. Of note, we reviewed correspondence relating to MSU's Campus Climate Focus Groups, as well as annual reports issued by MSU's Office of Institutional Equity ("OIE"). We also reviewed flyers that were a part of two University awareness campaigns: a sexual violence awareness and bystander intervention campaign and MSU's "It's On Us" campaign.

## Overview of Feedback From MSU Community Members

For purposes of our two reports, we met with a number of University officials and representatives to discuss the components of MSU's Title IX program. These meetings included members of OIE,<sup>24</sup> as well as officials from other administrative offices and institutional committees that support the University's effort to prevent and address sexual misconduct. We also met with students, faculty, staff members and administrators from across the University who do not have a direct connection to, or role in, Title IX-related work. The groups we met with are detailed in the sections that follow:

**The Committee on Violence Free Communities<sup>25</sup>** | The VFC includes representatives from the Greek Life Office, LGBT Resource Center, MSU Police Department, MSU Safe Place, Office of General Counsel, OIE, Olin Health Center, Recreational Sports – Self Defense Programs, Sexual Assault Program, Sexual Assault and Relationship Violence Prevention Program, Student Conduct and Conflict Resolution Office, the Women's Resource Center, and the Title IX Coordinator. The purpose of the organization is to help create a campus culture free of relationship violence and sexual misconduct. For the 2016-2017 academic year, the VFC released reports highlighting recommendations relating to MSU's Title IX-related work as well as key accomplishments. In addition to regular meetings, the organization hosts open meetings each year.

**The Sexual Violence Advisory Committee<sup>26</sup>** | The SVAC is made up of representatives from faculty, staff and students who are appointed by the President for one-or two-year terms. Student representatives include one representative from the Associated Students of Michigan State University ("ASMSU"), MSU's student government body, as well as one representative from the Council of Graduate Students ("COGS"). The Committee is advised by representatives from the SVAC Prevention Program, the Sexual Assault Program, MSU Safe Place, Residential Education and Housing Services, Student Conduct and Conflict Resolution, OIE, MSU Police Department, and the Office of General Counsel. The Committee is charged with serving as a forum for community engagement and feedback on sexual violence and to provide input on the University's programs and initiatives aimed at raising awareness and reducing the prevalence of sexual violence. In addition to regular meetings, SVAC hosts an annual open meeting to gather constituency feedback.

**Women's Council and Advisory Committees<sup>27</sup>** | The Women's Council and advisory committees to the Provost and Vice Presidents serve as vehicles for women's voices amongst MSU and the greater community. The Women's Council's goal is to enhance the quality of women's lives on campus and provide a safe community, and it participates in a wide range of activities, from rallies to educational events, training, and volunteering.

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<sup>24</sup> These meetings included multiple meetings with the Title IX Coordinator, and the Director of OIE, who both joined MSU in late 2015 and OIE staff. As of the date of this second report, the Director of OIE has since left MSU.

<sup>25</sup> The VFC's mission statement and information about the VFC is available at: [http://titleix.msu.edu/\\_files/documents/Violence-Free-Communities-2017-Annual-Report-FINAL.pdf](http://titleix.msu.edu/_files/documents/Violence-Free-Communities-2017-Annual-Report-FINAL.pdf).

<sup>26</sup> SVAC's charge along with additional information about the organization is available at: [http://titleix.msu.edu/\\_files/documents/svac-overview-and-charge.pdf](http://titleix.msu.edu/_files/documents/svac-overview-and-charge.pdf).

<sup>27</sup> Information on the Women's Council and advisory committees is available at: <https://msu.edu/~msuwomen/>.

**Appeals Officers** | Appeals officers reviewing cases adjudicated under the RVSM Policy include the Vice President for Student Affairs and Services, who reviews student appeals where separation from the University is recommended, and the Equity Review Officer, who reviews all faculty and staff appeals as well as student appeals where there is no violation or where a sanction less than separation has been determined.

**The Office of General Counsel** | The OGC provides legal advice and representation to the University through its President, Board of Trustees, and administration on a broad array of legal issues affecting a major public research institution.

**The Policy Work Group** | The Work Group is a multi-disciplinary group comprised of faculty, staff and students, as well as the Title IX Coordinator, that assists in reviewing and updating the RVSM Policy annually. Many of the participants in the Work Group are connected to the RVSM Policy process either directly or through a provision of services to students or employees.

**Students** | In phase 2, meeting invitations were sent to all student governance groups and all student organizations. In phase 1, meeting invitations were sent to all student governance groups and students from a wide range of student organizations, including the ASMSU, COGS, Residence Hall Association (“RHA”), SVAC, Women’s Council, Greek Councils, Council of Racial Ethnic Students (“CORES”), Council of Progressive Students (“COPS”), MSU Bands, Student Athletes, Council of Students with Disabilities, SARV Prevention Program Peer Educators, Sexual Assault Crisis Intervention (SACI) Volunteers, International Studies and the Alliance of Queer and Ally Students (“the Alliance”).<sup>28</sup> Over the course of our meetings, we had the opportunity to talk with a broad cross-section of students including freshmen, sophomores, juniors, seniors, and graduate students from a variety of academic programs and colleges. These participants also included a number of representatives from student organizations such as MSU’s athletic program, the Spartan Marching Band, ASMSU student government, students connected to SACI,<sup>29</sup> the Sexual Assault and Relationship Violence Program (“SARV”), International Student Association (“ISA”),<sup>30</sup> students associated with Greek life, as well as students from the Residence Hall Association and Women in Entrepreneurship student group.

**Faculty and Staff** | In phase 2, meeting invitations were sent to faculty governance and all staff and faculty advisory groups. Additionally, senior leaders were encouraged to distribute these invitations through listservs. For both phases, meeting invitations were also sent to a wide range of faculty and staff groups, including Faculty Senate, Center for Gender in a Global Context, Research Consortium for Gender-based Violence, SVAC, VFC, RVSM Policy Work Group, Women’s Advisory Committees (Provost and Vice Presidents). Over the course of our meetings, we had the opportunity to talk with faculty from multiple disciplines and staff members from a variety of University offices. Faculty participants included tenure, non-tenured, full-time and part-time faculty. Staff participants included a range of staff from senior administrators, to a number of representatives of the Women’s Advisory Committee for Support Staff.

**Leadership** | In phase 2, we hosted separate meetings for Deans and Vice Presidents.

The majority of these meetings occurred over the course of four full days, October 5 and October 11, 2017, and February 6 and February 19, 2018. We also held two evening sessions for students on October 22, 2017, and February 18, 2018. Through these meetings, we were able to collect useful information from a broad range of individuals with varying perspectives and experience with MSU’s Title IX program. The feedback we received, in our view, provides valuable insight as to how some members of the University community feel about specific components of MSU’s Title IX program. This input is summarized throughout this report, and we believe the results should be instructive as MSU considers improvements to its Title IX program. However, given the University’s sheer size, we caution readers against attributing the feedback summarized here, which was offered by individuals who voluntarily participated in small discussion groups, to the MSU community as a whole.

Discussions during our onsite meetings occurred in an organic manner, with participants freely volunteering information on a host of issues relating to sexual misconduct and gender discrimination generally and to MSU’s sexual misconduct prevention and investigation work in particular. However, to ensure we were soliciting feedback related to the scope of both the phase 1 and phase 2 reviews, we utilized questions that probed at the participants’:

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<sup>28</sup> The Alliance is a student organization and one of the groups that forms the Council of Progressive Students under ASMSU. The Alliance has a tradition of campus and community political action and serves as a voice in ASMSU on queer issues.

<sup>29</sup> SACI is a student organization comprised of undergraduate and graduate student volunteers who are trained to provide advocacy to survivors of sexual violence. Members staff a 24-hour crisis line, provide medical advocacy, and serve as peer educators. The group works with the MSU Counseling Center Sexual Assault Program to provide support, empathy, and information to survivors of gendered violence.

<sup>30</sup> ISA is the largest international student organization of MSU, and it works to promote and enhance international awareness, cooperation, cultural diversity and dialogue among international students on campus, and between international and American students on campus and amongst wider communities.

- Awareness, knowledge, and perceptions of the RVSM Policy, including specific terms and definitions, reporting options, and the investigation, adjudication and appeals processes.
- Awareness, knowledge and perceptions of the roles and responsibilities of OIE, the Title IX Coordinator, and confidential resources.
- Awareness, knowledge and effectiveness of outreach and training programming.
- Awareness, knowledge and perceptions of the role of responsible employees.
- Awareness, knowledge and involvement in various outreach and engagement activities.
- Recommendations for program improvement.
- Perspectives on fairness in the investigation and adjudication processes and availability of equitable resources, particularly with respect to individuals accused of policy violations.

While a number of participants offered perspectives on the RVSM Policy, which was primarily addressed in the first report, most of the feedback from participants in all of our onsite discussion groups related to topics that are covered in this second report. We have summarized by category these major themes covered by the participants:

#### **Feedback Category 1 | Culture and Leadership**

- Participants generally asserted that sexual misconduct cannot be solved through training and prevention programming alone. “Broader solutions” and “a culture change” are necessary to shift attitudes and elevate the seriousness of this behavior.
- MSU should engage in efforts to support an institution-wide culture change relating to the community’s perception and understanding of sexual misconduct, its support of victims, as well as its support for fairness and due process. This effort should be directly linked to the University’s values and mission.
- MSU’s efforts to prevent and respond to sexual misconduct have gone through a significant evolution in recent years and changes in this area have been positive and welcomed.
- Those involved in Title IX-related work feel that OIE has been infused with a strong team of new staff members and a new Title IX Coordinator who actively facilitates community input and participation in the development and improvement of the University’s efforts in this area. However, many participants expressed concern that MSU leadership has not clearly and effectively communicated these changes, nor has it explained the structure and responsibility of OIE. As a result, members of the MSU community who are not actively engaged are uninformed.

#### **Feedback Category 2 | Communication**

- There is overwhelming concern that skepticism relating to MSU’s Title IX program and investigations from previous years persists and continues to impact the campus community’s perception of improvement efforts.
- Many within the campus community continue to desire additional improvements and enhanced communication on sexual misconduct issues. The vast majority of participants expressed appreciation for being given an opportunity to present feedback during our onsite visit and felt this review demonstrated a meaningful commitment to continuous improvement, but want to see continued work in the months and years ahead.

### Feedback Category 3 | Training

- Participants represented that they believe many within the MSU community strongly desire more sophisticated, real-world, scenario-based, in-person educational and prevention programming. There is also sentiment amongst participants that students, staff, and faculty alike are distracted, unengaged, and inattentive to online trainings. We attribute this sentiment to the perception that MSU's online training programs lack sophistication, quality, and real-world relevancy. Likewise, we attribute it to competition for time and attention in individuals' overcrowded schedules and a general apathy toward mandatory online training.
- There is significant concern that the MSU community perceives both in-person and online trainings as "check-the-box" exercises that may satisfy compliance requirements, but that have little practical impact.

### Feedback Category 4 | Services and Resources

- While CAPS does not serve as the primary counseling provider for sexual misconduct survivors, there was near-unanimous concern that CAPS is understaffed, resulting in wait times for new clients of between 4 and 8 weeks. Participants believe that this delay does not meet expectations for accessing such services. There is also concern that vacancies and new positions in these areas are hard to fill because MSU salaries are allegedly not competitive, thereby resulting in significant understaffing.
- There is concern that the largest component of MSU's primary prevention program, SARV, lacks adequate and direct investment from the University.

# Education and Prevention Programs



# Education and Prevention Programs

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MSU offers a variety of education and prevention programs for its students, staff, and faculty. These programs generally fall into two categories: (1) programs relating to MSU's Title IX policies, procedures, and reporting requirements; and (2) programs designed to prevent sexual misconduct through education about healthy interpersonal relationships and bystander intervention strategies. Many of MSU's training programs touch upon both topics.

These programs are offered either electronically through online content and videos, or through in-person presentations. There are a number of different offices and administrators responsible for developing program content and managing the administration of these programs. Some programs are funded directly by MSU, while others are funded by outside grants. Some programs are mandatory for certain segments of the MSU community; others are offered, but not required.

Throughout our sessions, we often heard from discussion participants that they were unaware of which populations within the campus community were receiving what kind of training. For instance, a number of faculty members and graduate students reported that they didn't know the type of relevant training undergraduate students were receiving, whether that training differed from their own training, and how frequently undergraduates received that training. Likewise, undergraduate students expressed concerns about whether students in special populations, including students with disabilities, international students, athletes, and LGBTQ students, had access to supplemental trainings geared to their specific interests. Because this knowledge gap was a common theme in our discussion groups, and in light of the tapestry of education and prevention programs at MSU, we believe it would be valuable to provide the overview and summary of these programs set forth in the following section.

## Online Programming

MSU uses online trainings, developed by an outside vendor, that are generally required on an annual basis for all students, both undergraduate and graduate. Faculty and staff, as employees, are required to complete online training every other year. MSU's Title IX team vetted these online trainings by conducting market research and testing various modules to evaluate options from vendors. Each program has been customized to include specific information about MSU's Title IX program, with the employee training having undergone the most customization.

Undergraduate and graduate students are expected to complete an initial 60 minute online training course, (referred to as "Not Anymore" training, described below), upon their enrollment at MSU. Thereafter, students are required to complete a shorter, "refresher" online course (approximately 23 minutes), (referred to as "Every Choice," described below), each subsequent academic year. Students who fail to complete the training within the designated timeframe will receive a reminder email every week until the training program has been completed. Students who fail to complete this program in timely fashion are restricted from accessing parts of MSU's student information system, "StuInfo," until they complete the training, thus limiting their access to academic information such as appointments, grades, and transcripts.

Faculty and staff are required to take a 30 minute online training session, also referred to as "Not Anymore" training, but which differs considerably from the students' training. Employees must complete their training every other year, within 30 days of its assignment. An employee who fails to complete the training within the 30-day window will receive a weekly reminder email. Those who fail to take the training within the required window are included in a monthly report sent to the supervisor of their business or academic unit, who is responsible for enforcing compliance. Where an incompleteness persists, the offices of Human Resources or Academic Resources are instructed to pursue disciplinary action. As an additional compliance measure and to encourage immediate completion, OIE sends monthly reports listing employees who are more than 90 days late to the Provost, the Executive Vice President for Administrative Services and the Executive Vice President for Academic Affairs.

The required online trainings for students, faculty, and staff are a component of MSU's primary prevention programming, and are intended to provide an initial explanation of key concepts that are reinforced through other education and prevention training programs. As highlighted in OIE's annual 2016-2017 report, 52,195 students and 9,117 employees completed the online training in the last academic year.

## Not Anymore Training (aka “RVSM Training”)

The “Not Anymore” online training is offered in separate tracks for undergraduate and graduate students and employees. The employee training is approximately 30 minutes and is required for all employees, including faculty and staff, every other year. All undergraduate and graduate students take a 60-minute training upon initial enrollment at MSU, followed by annual 23-minute refresher sessions.

The undergraduate track covers information on consent and sexual assault, bystander intervention, alcohol, relationship violence, healthy relationships, sexual harassment, stalking and what to do if the student experiences sexual misconduct. Each module contains information and statistics to explain the legal standards and “red flags” surrounding these areas of sexual misconduct. The training is scenario-based and includes testimonials from survivors. The graduate student track covers the same basic information as the undergraduate track, but features older peer presenters and testimonials, and more age-appropriate scenarios, as well as a section on gender discrimination tailored to the role of graduate students.

While the Not Anymore training is referred to within the MSU community as the “RVSM Training,” the employee track describes the RVSM Policy in greater detail than the student track, though this topic is addressed in both tracks. In addition, the RVSM Policy is presented in the student track through resource tabs in the training that users can click on to familiarize themselves with the policy, key definitions, and resources.

The employee track explains sexual violence and relationship violence, and how to appropriately respond and report. The training explains the role employees play in creating a more open and safe culture on campus, the role of OIE, and the complaint investigation process. The training also explains mandatory reporting, how to be an active bystander, and the RVSM Policy.

## Every Choice Refresher Program

The “Every Choice” program is an online refresher training for returning undergraduate and graduate students who previously completed the “Not Anymore” online training. This 23-minute course training in video format provides returning students with a review course on interpersonal violence and an overview of sexual violence statistics, as well as instructing on safe intervention techniques (e.g., “direct/distract/delegate”). The video includes survivor testimonials, and concludes with an explanation why intervention is important.

MSU’s refresher course is updated annually so that students are not taking the same training year after year. New offerings are currently in development for the 2018-2019 school year.

## Title IX Essentials for International Student

This online training was developed specifically for international students and designed to accommodate a range of different cultural backgrounds. It covers U.S. culture as it relates to dating, consent, and sex, as well as communication styles in a typical college campus setting. The training explains sexual harassment, sexual violence, relationship violence, and stalking, and contains information about MSU’s policies and relevant laws, and bystander intervention strategies. The training was developed by the vendor in partnership with MSU as an additional voluntary resource for international students and is approximately 20 minutes long.

### Topics covered by the student tracks include:

- Identifying sex discrimination and sexual harassment, including relationship violence and sexual misconduct.
- Raising awareness of the impact of sexual misconduct on the campus community and encouraging community members to engage in efforts to end these behaviors.
- Advising members of the MSU community about their rights and reporting options.
- Communicating behavioral expectations for all members of the MSU community.
- Connecting community members with support and resources.

# In Person Training

## Sexual Assault and Relationship Violence Prevention Program

The SARV Program serves as a major component of MSU's primary prevention programming. The aim of the program is to eliminate violence on campus and empower students to become advocates for a non-violent community while effectuating positive social change.

The Program includes a required workshop for all first-year and transfer students. The two-hour workshop is facilitated by peer educators who present program materials and lead discussions. The SARV Program starts with a welcome section covering relationship violence, stalking, sexual assault, and sexual misconduct, as well as detailed information about the RVSM Policy and Title IX resources available to MSU students. After the general overview, participants are split into breakout groups divided by gender. Each breakout group is presented with various scenarios and discussion questions connected to those scenarios. The scenarios cover topics such as consent, interventions, and victim-blaming. The training includes college-life scenarios involving mixed-gender and divided-gender groups. Students are given a brochure to take with them that contains information on reporting options, along with on- and off-campus resources.

In 2016, 62 peer educators provided 256 workshops, which include the general workshop as well as specialized workshops for special populations. While considered a required program for MSU students, there are no consequences imposed on students for failing to complete the workshop.

### SARV Specialized Workshops

The University offers two specialized SARV Workshops: (1) an International Student Workshop, and (2) a LGBTQ Workshop. These workshops are optional and follow the same format as the SARV general workshop, with an overview of sexual misconduct topics and the RVSM Policy. SARV peer educators run group scenarios and discussions during training. Scenarios are made more relevant to these populations by tailoring the script to the audience and providing specific information to address the concerns of these groups.

### “Greeks Take the Lead” Workshop

The “Greeks Take the Lead” project is designed to be a supplemental training program for the fraternity or sorority community by encouraging leadership, intervention, and dialogue. The project identifies various trainings to implement, including president training for new Greek chapter presidents, risk manager training, and general member training. In 2017, MSU required all registered fraternities and sororities to participate in a SARV-led “Greeks Take the Lead” program. Greek organizations that fail to demonstrate 100% compliance with the training requirement amongst their membership are subject to the loss of recognized student organization (“RSO”) status. While there has been non-compliance for some organizations, MSU has generally permitted those groups to participate in “make-up” sessions to support compliance and allow the organizations to maintain their RSO status.

Through the use of scenarios, these sessions include information about consent, intervention strategies, risk reduction tactics, and the RVSM Policy. The scenarios were developed in collaboration with individual chapters and focus on consent, sexual harassment, and alcohol. The training also addresses how to support survivors and respond to receiving a report of sexual misconduct. This workshop was developed and supported through funds from the State of Michigan's Campus Sexual Assault Grant Program.

### SARV Peer Educators Training

SARV training programs are facilitated by student peer educators who receive a stipend for their work. Peer educators receive several days of training that covers SARV, the RVSM Policy, communication strategies, class management, and group facilitation skills. Peer educators are tested on their knowledge of these topics prior to conducting trainings.

## Bystander Network Training

The Bystander Network training was also developed and supported through funds from the State of Michigan's Campus Sexual Assault Grant Program. The program used SARV peer educators to conduct a voluntary in-person workshop to encourage bystander intervention and reinforce intervention messaging. The Bystander Network was a "systematic approach to reinforcing the message" provided in the SARV Program. In essence, the Bystander Network workshop was intended to serve as a "second dose" of prevention training for upperclassmen.

The training relies on a PowerPoint presentation, with audience polling and video scenarios, in conjunction with an extensive training script. In addition, the program provides for follow-up efforts and continued awareness efforts in the form of social media, video clips, posters, handouts, and promotional materials.

The University also created a high school toolkit, specifically for participating area high schools, called Students Teaching and Empowering Peers (STEP), containing information about how to be an active bystander. Notably, this program was not deployed due to a lack of funding.

## OIE Training Programs

OIE offers a variety of in-person training programs, which can be customized for campus groups, departments, and organizations. These training programs focus on the RVSM Policy, response and investigation procedures, and mandatory reporting. During the 2016-2017 academic year, OIE facilitated 140 in-person training programs to departments, units, and organizations on campus. These trainings generally provided overviews of the University's RVSM Policy and Anti-Discrimination Policies, applicable laws, employee reporting responsibilities, reporting options, available resources, the investigation processes, and case studies.

In the fall of 2016 and fall of 2017, OIE provided a Title IX training for Athletic Department staff, which includes athletics trainers, strength and conditioning staff, administrators, and coaches. The training covered the RVSM Policy, as well as mandatory reporting responsibilities.

In the fall of 2017, Academic Affairs and OIE began requiring each academic unit to conduct in-person trainings for the 2017-2018 academic year. These trainings expand upon the University's online training program and cover the RVSM Policy, applicable laws, employee reporting responsibilities. They also include case studies.

## Training for Residence Education and Housing Services

OIE provides training to Residence Education and Housing Services ("REHS") staff including Resident Assistants and Community Directors. These trainings generally address the RVSM Policy, the role and duties of the OIE office and Title IX Coordinator, how to recognize and appropriately address incidents and complaints, how to report, and how to identify sex and gender-based discrimination, harassment and violence.

In addition, in the fall of 2017, MSU Safe Place, the Sexual Assault Program ("SAP"), and SARV collaborated on a comprehensive one-hour presentation for REHS on how to support survivors of sexual assault, relationship violence, and stalking. This training covered reactions to assault, signs of trauma, reporting requirements, and why survivors may not report the assaults. The presentation also covered bystander interventions and how to respond to a survivor when he/she reports an incident, as well as common mistakes that individuals make upon receiving a report of sexual or relationship violence. The training also addressed the available support services and resources for survivors.

## Training for Athletes

Student athletes on every varsity team receive two presentations per year addressing issues relating to sexual misconduct. The first presentation, "Huddle Up," is presented by the Institute for Sport and Social Justice<sup>31</sup> and utilizes a smaller group setting (maximum 30 people). Groups are split, with freshman receiving a longer presentation and returning student athletes receiving a refresher course. The groups are also divided by gender. The interactive sessions cover topics such as consent, University definitions of consent, reporting, alcohol, and bystander intervention strategies.

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<sup>31</sup> The Institute for Social Justice Reform (ISJR) was formerly known as the National Consortium for Academics and Sports (NCAS), but changed its name effective January 1, 2018. ISJR serves over 50 NCAA Division 1 athletic departments by providing training and resources geared to student athletes.

The second presentation is provided by OIE. It gives an overview of Title IX and OIE, and explains mandatory reporting and the RVSM Policy. This training utilizes mixed-gender and mixed-sport groups of both freshman and returning student athletes, and also includes some case studies. The OIE training generally includes about 30-40 people.

In addition to these required presentations, the Athletics Department utilizes periodic speakers, leadership groups, and forums to discuss topics related to sexual misconduct and prevention. For instance, the football team has a program called “Keeping It Real” for freshman players. The program includes weekly meetings and presentations on healthy relationships and on sexual violence, among other topics, and includes a guest speaker from OIE.

### Training for Athletics Coaches and Staff

MSU provides training annually to Athletics coaches and staff addressing, among others, the following topics:

- MSU’s policies and grievance procedures.
- The role and duties of the OIE office and the Title IX Coordinator.
- How to recognize and appropriately address incidents and complaints under Title IX, including where and with whom to report such incidents.
- How to identify sex discrimination, sexual and gender-based harassment, assault and violence.

### Employee Prevention Workshops

In 2016, MSU hosted nationally recognized speaker Tom Temblay, who provided training presentations on the subject of adopting a trauma-informed-leadership approach to campus sexual violence. The president, vice presidents, and 35 other campus leaders attended. In 2017, MSU hosted another nationally recognized speaker, Alan Berkowitz, as part of MSU’s “It’s On Us” week of action. This presentation discussed social norms theory and bystander intervention strategies for employees. Approximately 50 faculty and staff members, 20 athletics staff members, and 20 residential life staff members attended.

### Self Defense Program

MSU offers a free, two-hour self-defense program workshop that provides common sense and practical information regarding sexual assault prevention. Participants learn verbal, non-verbal, psychological, and physical techniques for defending potentially violent encounters. Participants also practice basic self-defense skills to help ward off an attack. The program is interactive, optional, and open to both women and men.

### Summary of Education and Training Programs

As discussed in more detail above, MSU offers a variety of education and prevention training programs that support its Title IX program, including mandatory online training for employees and students, and mandatory in-person SARV Prevention Program for students. In addition, MSU requires additional training for special populations, including the Greek community and its leadership, as well as student athletes. Further, supplemental and voluntary training programs are also offered for students and employees.

At a minimum, MSU’s undergraduate students receive 60 minutes of online training covering key prevention topics with access and information to key concepts addressed in the RVSM Policy, as well as two hours of a peer-led SARV Prevention Program. Thereafter, undergraduates receive 23 minutes of online refresher training. Interested undergraduates may also receive additional programming targeted to special populations, including the Greek community, LGBTQ community and student athletes.

Graduate students receive the initial 60 minute online training and a subsequent 23 minute online refresher training each year after. There is currently no in-person education and prevention program training required for graduate students. OIE, however, does provide additional training on mandatory reporting for graduate students who are serving as teaching assistants (“TAs”) and research assistants (“RAs”) at a new TA and RA orientation institute; those individuals also take employee training. Employees receive 60 minutes of online training each year.

Employees receive 30 minutes of online training every other year.

Pedagogic data suggest that individuals learn best through repetitive exposure to content and through various delivery modes.<sup>32</sup> We believe MSU’s approach to allow for some repetition and to vary the modes of delivery through both online and in-person training is a good start. Further, this is in line with most institutions of similar size as MSU that we reviewed, who frequently rely upon both online and in person trainings. However, we recognize gaps that may be contributing to a significant amount of the misinformation amongst students and personnel, particularly with respect to grad students and staff, as well as in-person training for all employees. These issues are summarized in the following section.

**FIGURE 1: MSU Primary Training Summary**

	Delivery Mode		Audience			Topics	
	Online	In-Person	Students	Grad Students	Employees (Staff, Faculty, and Grad Employees)	Policy/Reporting	Prevention/Bystander Intrv.
“Not Anymore” & “Every Choice”	X		<u>X</u>	<u>X</u>		X	X
“Not Anymore/RVSM Training” (Employees)	X				<u>X</u>	<u>X</u>	X
“Title IX Essentials for Intl. Students”	X		X			X	X
SARV General Workshop		X	<u>X</u>			X	X
Supplemental Trainings							
SARV Specialized Workshops – Intl. and LGBT		X	X			X	X
SARV Specialized Workshop – “Greeks Take the Lead”		X	X**			X	X
SARV Specialized Program – Bystander Network		X	X				X
OIE Trainings – Academic Affairs, REHS, & Athletic Dept.		X			X**	X	
“Huddle Up” – Student Athletes		X	X**				X
OIE Training – Student Athletes		X	X**			X	

\*Underscored values indicate required training for all within that category.

\*\*Asterisk indicates mandatory with respect to a subset of that category (e.g., Greek community members, athletes).

## Summary of Feedback on Education and Prevention

Despite MSU’s tapestry of education and prevention programs, we consistently found that discussion group participants were unaware of, or misinformed about, key concepts relating to MSU’s Title IX program. For example, while student participants were very familiar with the concept and definition of “consent,” they were unaware of the resources available to survivors of sexual misconduct and to those accused of sexual misconduct. While faculty participants understood that they have a mandatory reporting obligation, many were unaware of OIE’s investigation process and the underlying reasons for key concepts in MSU’s RVSM Policy. Many participants did not understand the neutral role that the Title IX Coordinator and OIE investigators play in providing a fair and equitable investigation for all parties, and some questioned whether that approach was “victim-friendly.” All groups were overwhelmingly unaware that MSU’s policies and procedures had recently undergone significant revision, and that OIE had recently been restructured with a number of new staff members.

<sup>32</sup> “Hundreds of studies in cognitive and educational psychology have demonstrated that spacing out repeated encounters with the material over time produces superior long-term learning, compared with repetitions that are massed together. Also, incorporating tests into spaced practice amplifies the benefits. Spaced review or practice enhances diverse forms of learning, including memory, problem solving, and generalization to new situations. Spaced practice is a feasible and cost-effective way to improve the effectiveness and efficiency of learning, and has tremendous potential to improve educational outcomes.” Kang, S.H.K., Spaced Repetition Promotes Efficient and Effective Learning: Policy Implications for Instruction, Policy Insights from the Behavioral and Brain Sciences, Vol. 3(1), 12-19, (2016), available at [https://www.dartmouth.edu/~cogedlab/pubs/Kang\(2016.PIBBS\).pdf](https://www.dartmouth.edu/~cogedlab/pubs/Kang(2016.PIBBS).pdf)

We also received specific feedback regarding the participants' experience with MSU's education and prevention training programs and recommendations for improvement. For instance, participants expressed a strong desire for more sophisticated, real-world, scenario-based, in-person educational and prevention training. This recommendation came from students, faculty and staff, alike. There is general sentiment that students—and even faculty and staff—are distracted, unengaged, and inattentive to online trainings, which are viewed as a compliance-driven “check-the-box” exercise. This view was attributed to online content being over-simplistic and lacking quality and relevancy, as well as facing steep competition due to already overcrowded schedules and general apathy for online training. Some participants expressed concern that training scenarios do not include realistic situations, particularly scenarios involving the LGBTQ community.

Many faculty, staff and administrator participants asked for more real-world scenarios, and criticized trainings that were overly simplistic and only address “black and white” sexual harassment or sexual assault scenarios. A significant portion of supervisor participants expressed desire for more “HR-related” professional development on how to address situations where subordinates are accused of, or found to have violated, MSU policy. A significant number of faculty participants expressed concern that while they understand they have an obligation to report sexual misconduct, they desire training on how to respond to reports from an interpersonal perspective, and how to support survivors.

Several participants, particularly undergraduate and graduate students, cautioned that Title IX trainings should not be victim-focused, teaching individuals how to avoid sexual misconduct and respond if it occurs. These participants instead suggested that trainings should specifically cover predatory behaviors that lead to sexual harassment and/or sexual assault, and that perpetuates “rape culture.”

There is also concern from student participants that the quality of peer-educator programs can vary depending upon the trainer. On one hand, a majority of student participants complemented the SARV peer-educators and recounted a number of lessons they learned from their SARV training. On the other hand, some students felt their SARV training experiences were not as rich and recounted that other students were off-task, distracted, and unengaged, and that the SARV peer educator was unable to bring focus back to the training. While we met with a number of impressive peer-educators, they also expressed concern about varied quality. Some students suggested coupling peer educators with MSU employees from the Title IX and/or counseling offices to provide more effective and consistent training.

While many participants expressed a view that sexual misconduct cannot be solved through training alone, participants in nearly every discussion group indicated that training that occurs only once-a-year is not adequate. Some student participants feel that only one in-person SARV training is not adequate and that in-person trainings should be provided to upperclassman, as well as incoming students. Employees—most of whom do not receive any in-person training—expressed concern on both sides of this issue; some were concerned that “over-training” would breed apathy and recognized that this is administratively burdensome for an institution of MSU's size, while others felt in-person training would be more effective with staff and faculty.

We received mixed information regarding participants' understanding of the consequences for failing to participate in required training. For instance, some student participants indicated that failing to participate in mandatory training can result in a “hold” on the student's account, which delays access to grades. Others indicated that those consequences were not actually enforced. Most students participating in the discussion groups reported that it was common practice for students to skip through an online training module, effectively bypassing the majority of the training. Likewise, some reported that a number of students may “swipe” one's student ID to get credit for attending, but then leave without participating. Some student participants expressed the view that consequences should be imposed for failing to participate in SARV training. On the other hand, staff and faculty reported that most personnel, including MSU leadership, complied with mandatory training requirements, with supervisors actively monitoring non-compliance and following up with their employees to correct it.

On a related point, many participants felt that MSU's training approach should utilize a “principled” messaging strategy emphasizing the importance of the training rather than requiring training for the sake of compliance (e.g., “training helps keep our community safer... this is how you can do your part to prevent sexual misconduct and help those who experience it”). Participants believed that the University's message around sexual misconduct training should be connected to a sense of individual responsibility and respect for the seriousness of this issue. In essence, participants suggested that MSU should support training participation because members of the community have “bought-into” the idea that training is important and should be prioritized. Some feel that the mandatory nature of trainings undermines this values-based approach. Many seemed wholly unaware of MSU's obligations relating to trainings under its 2015 Resolution Agreement with OCR.

Participants expressed a strong desire for more sophisticated, real-world, scenario-based, in-person educational and prevention training. This recommendation came from students, faculty and staff, alike. There is general sentiment that students—and even faculty and staff—are distracted, unengaged, and inattentive to online trainings, which are viewed as a compliance-driven “check-the-box” exercise.

We spoke with many individuals who advocated for separate training tracks for special populations. For instance, some students advocated for additional training tracks for survivors of sexual misconduct that could be designed to avoid common triggers. Graduate students asked for expanded training that focused upon their unique issues, serving in dual roles as students and educators. Faculty requested trainings that went beyond their reporting requirement, and educated them about how to respond when receiving a report, and how to support a survivor of sexual misconduct. Administrators asked for human resources-oriented training on how to handle sexual misconduct complaints that affect their departments, including as it pertains to personnel that they may supervise.

While many participants advocated for increased quality and quantity of education and prevention training for all members of the MSU community, an equal number of participants expressed concern about “training fatigue.” These individuals noted a general sense of apathy amongst the MSU community for complying with time-consuming training requirements. They also noted the difficulty in efficiently communicating an effective message on such a complex topic with a population that is extremely busy with competing interests.

In sum, the majority of feedback we received centered around the quality and delivery of MSU’s education and prevention training. Notably, many of these themes on training were also raised in SVAC’s 2015-2016 Recommendations report,<sup>33</sup> which emphasized “multi-dose learning,” training gaps, and providing “short engaging programs... (e.g., theater)” and mandatory bystander training for faculty, staff and students. These recommendations were again repeated in SVAC’s 2016 Annual Report, which also recommended continued investment in multi-dose in-person training in smaller settings.

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<sup>33</sup> SVAC 2015-2016 Recommendations, available at: [http://www.titleix.msu.edu/\\_files/documents/svac-spring-2016-recommendations.pdf](http://www.titleix.msu.edu/_files/documents/svac-spring-2016-recommendations.pdf)



# Support Services and Resources

# Support Services and Resources

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MSU directly provides a number of services and resources that support its Title IX program. Some resources are generally available to students, staff, and faculty, and some are limited to specific subsets of the MSU community. Some resources are offered to the broader community within East Lansing. Additionally, MSU provides a list of resources and referrals for supplemental services that are available within and around East Lansing, but which are not provided by MSU.

The vast majority of these services and resources primarily serve survivors of sexual violence, relationship violence, and stalking. However, some of these services are also available to individuals who have been accused of sexual misconduct. The following section summarizes the key services and resources that are provided by MSU.

## MSU Safe Place

MSU Safe Place is a University-run stalking, domestic and dating violence shelter. MSU Safe Place provides free and confidential services to individuals affected by relationship violence and stalking, including emergency shelter, advocacy, information, referrals, counseling, support groups, and academic scholarships. These resources are available to MSU students, staff, faculty and spouses/partners of MSU-affiliates. Minor children of individuals utilizing MSU Safe Place may also receive shelter or counseling, and non-MSU-affiliated persons may likewise obtain services when shelter space and staffing are available. In addition to providing shelter, Safe Place engages in awareness and outreach efforts by providing presentations and trainings, attending campus resource fairs, and maintaining a social media presence.

## Sexual Assault Program

SAP serves as MSU's primary provider of free crisis intervention and advocacy services for survivors of sexual misconduct. SAP facilitates immediate emergency response and crisis intervention for sexual misconduct victims and is available to both MSU community members as well as members of the local community. It staffs a 24-hour Sexual Assault Crisis Line and provides 24-hour in-person medical advocacy services. SAP utilizes volunteers to help staff these services. The Sexual Assault Crisis Intervention (SACI) team is a volunteer group of students and community members who are trained to provide advocacy services to victims of sexual violence. SACI is a registered student organization and is part of SAP.

SAP offers individual therapy and group therapy, which is free to MSU students. For example, in spring of 2018, SAP is offering the following support groups:

- **Seeking Safety** – Structured group where individuals learn to build new skills to cope with trauma and feel safer in their day-to-day life.
- **Forward Together** – Process group where members establish trust, share struggles and provide support through discussion.
- **Sister Circle** – A support group for black and Latino, female-identified sexual assault survivors that encourages healing through sharing experiences and exploring individual and systemic trauma.

SAP also offers multiple drop-in groups where MSU student survivors can participate in yoga, art and creative activities or join discussion groups to support healing. In addition to participating in various outreach and prevention efforts and community education for students, SAP has several other initiatives and programs in development (i.e. Canine Advocate and Survivor Emergency Fund).

SAP maintains a website, [www.endrape.msu.edu](http://www.endrape.msu.edu), which, among other things, lists numerous resources and services available to sexual assault survivors, including national, Michigan and MSU related resources.<sup>34</sup> Notably, these resources include links to information for specific populations, including LGBTQ (e.g., the Survivor Project, Trans Survivors, and LGBT Survivors); Deaf women (e.g., Abused Deaf Women's Advocacy Services); and male survivors (e.g., White Ribbon Campaign, MaleSurvivor.org, 1in6, and The Collaboration of Male Peer Educators Against Sexual Assault and Stereotypes).

In 2017, SAP sponsored 57 volunteers to receive SACI-certification by completing 40 hours of training in sexual assault crisis intervention and advocacy.

## OIE Interim Measures

As noted by OCR in its 2017 Q&A Guidance, it may be appropriate for a school to provide interim measures during the investigation of a complaint of sexual misconduct. Interim measures are individualized services provided prior to, or during the pendency of, an investigation that are available to either, or both, of the reporting and responding parties involved in an alleged incident of sexual misconduct. Interim measures typically include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, and increased security.

In addition to requesting interim measures from OIE, individuals can seek accommodations in a more confidential manner through SAP and MSU Safe Place. Both entities are able to provide for limited interim measures in a manner that do not trigger a mandatory report to the Title IX Coordinator.

As addressed in our phase 1 report, MSU's RVSM Policy contains a discussion of interim measures on pages 39-41 of the policy. The relevant language indicates that "[t]he University will notify claimants... that interim measures are available..." In order to better manage the process for evaluating requests for interim measures, MSU has created a role within its OIE for an "Interim Measures and Training Specialist." This individual is responsible for, among other things, responding to requests for such services and support and making determinations with respect to reasonable interim measures and accommodations..

## Counseling Services

MSU Counseling and Psychiatric Services (CAPS) provides individual and group counseling services in a number of areas including depression, anxiety, substance abuse, stress management, family or other relationships, career decision-making, cultural identity, LGBTQ issues, interpersonal concerns, sexual assault, and couples issues. Any student registered for one or more credits is eligible for an initial consultation. As resources permit, additional services and/or referrals may be provided. CAPS treats approximately 1,800 students per year, with each student participating in 4 to 5 visits on average; CAPS provides over 8,000 psychiatric visits each year.

CAPS also provides clinical psychiatric treatment for a wide range of mental health concerns including mood and anxiety disorders, eating disorders, attention deficit hyperactivity disorder, alcohol/substance abuse, and psychosis. Appointments can be made with the Psychiatry staff by referral. Referrals are also accepted from a student's current psychiatrist, counselor, or primary care doctor, or from a CAPS counselor. The first three psychiatry appointments are prepaid by MSU for enrolled students (this does not apply to MSU Law or Lifelong Ed students). After the three covered visits, charges are billed to the participant's insurance.

For employees, MSU offers its Employee Assistance Program (EAP). EAP is a confidential counseling service provided at no cost to MSU faculty, staff, retirees, graduate student employees, and their families.

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<sup>34</sup> Available at: <http://endrape.msu.edu/resources/>.

## Comprehensive Resource Guides

OIE provides “Comprehensive Quick Resource Guides” for claimants and respondents seeking resources that are customized for students, employees, and individuals who are not affiliated with MSU as a student or employee. These Resource Guides are easy-to-understand one- or two-page documents organized into categories such as:

- Reporting Resources
- Confidential and Private Resources
- Additional Campus Resources
- Health Care and Mental Health Resources
- Community Resources
- National Resources

These Guides provide contact information for MSU police, local police, emergency lines, confidential resources, local hospital and medical facilities, mental health services and legal and immigration services.

## Summary of Feedback on Support Services and Resources

Participants who were familiar with these services, were extremely complimentary of MSU’s counseling and advocacy services offered through SAP and CAPS. However, another key theme we heard from students, faculty, and staff participants alike is their concern that MSU’s counseling services are understaffed and unable to keep up with increased demand. CAPS staff members reported seeing a significant increase in mental health issues in the last few years, along with an increase in referrals to MSU’s Behavioral Threat Assessment Team (BTAT).<sup>35</sup> Specifically, during our discussion group, CAPS staff members reported that it used to make around 40 BTAT referrals a year, and now that number hovers around 120-130 a year. They also reported weeks with 2 to 3 emergency referrals due to the uptick in mental health crisis situations and signs of suicidality. Additionally, CAPS reported that more faculty, advisors and residency staff are asking for mental health support protocols and intervention strategies to support students in crisis.

Among participants, there was nearly unanimous concern that understaffing results in wait times for new clients between 4-8 weeks. This reported delay is not in line with participants’ expectations that such services should be accessible with little to no wait time. As noted previously in this report, there is also concern that vacancies and new positions in this area are hard to fill as a result of what some participants feel is non-competitive salaries for these positions.

We also heard similar concerns with respect to SAP. The demands on these groups are extensive, as there is more pressure to serve more students. The combination of the increased demands and limited staffing has made it difficult to serve promptly individuals experiencing sexual misconduct and mental health issues. While student participants overwhelmingly complemented the SAP and CAPS services, they recognized the impact of constrained resources and expressed concern that this has also limited their ability to support the development of effective education and prevention programming that could be informed by their experience and expertise.

This concern about staffing also extended to the SARV Prevention Program which relies on one full time program administrator and peer educators. Many participants, including SARV peer educators and faculty members, asserted that SARV should be funded through adequate and direct MSU investment to support program improvement and expansion. Many of these same participants also suggested that the SARV program is best positioned to offer additional in-person training to populations, including staff and faculty, who typically do not get such training. Inadequate resources were repeatedly cited as the reason for SARV’s inability to develop new programming and offer that programming to new audiences.

Overall, a majority of discussion group participants seem to be lacking even basic awareness about other Title IX-related support services and resources provided by MSU. Faculty and student participants seemed very unclear about the availability of, and process for seeking, interim protective measures, including academic accommodations. Participants seemed to be generally unaware of the existence of MSU Safe Place, though all participants were impressed to learn about the resource once informed of its existence. Participants also did not have familiarity with OIE’s comprehensive resource guides that summarize MSU-provided and community resources for students, employees, and unaffiliated parties.

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<sup>35</sup> The BTAT facilitates a multidisciplinary, coordinated response to reports of students, employees, or other individuals on campus who have engaged in behavior indicating a possible threat of harm to self or other members of the campus community. More information is available at: <http://btat.msu.edu/>.

# Awareness, Outreach and Engagement

# Awareness, Outreach and Engagement

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MSU's Title IX program includes a number of awareness and outreach efforts including formally sponsored activities and numerous informal methods of distributing information amongst the campus community.

## Annual Title IX Report

MSU's Title IX Coordinator began providing annual reports to the University community in September 2016. These reports are short, digestible, info-graphic-driven documents that present important, useful information about MSU's Title IX program. This information includes a summary of OIE's staffing, the number of facilitated training programs, and statistics about employee and student engagement in required Title IX training. The reports explain through info-graphics the aggregate outcomes of OIE's investigations and the time to complete investigations. Also included is a breakdown of the policy violations that correspond to OIE's investigations of students, employees, and faculty, and MSU's imposed sanctions. The reports also provide information about a number of MSU's Title IX partners, including staffing and missions for SAP, SARV, MSU Police, and MSU Safe Place, as well as a map indicating the location of reported incidents. All reports are available on MSU's Title IX website.<sup>36</sup>

## Campus Climate Checks

MSU conducts "climate checks" through a variety of mechanisms aimed at gaining an understanding of Title IX-related concerns from the campus community. To facilitate an open dialogue, the Title IX Coordinator has hosted office hours and met with focus groups. Further, others reported that with respect to assessing climate, the new Title IX Coordinator, "[h]as been resolute about getting empirical data from us; there has never before been a period where that office has come to us and asked for data." The Title IX Coordinator's activities illustrate a concerted effort to engage in discussion and solicit feedback and data related to MSU's Title IX efforts.

The University also included an outreach list for focus groups, including members of special populations, including international students, students with disabilities, graduate students, the LGBTQ community, Greek Life communities, and other off-campus communities. The list is notable for its comprehensive and broad scope of groups targeted for outreach. As an example of MSU's effort to engage its community in Title IX focus groups—and the granularity of such efforts—MSU provided lists of student leadership contacts for nearly 50 student organizations that serve international students, who were contacted by the Title IX Coordinator to solicit their participation in Title IX focus groups. This list also included contacts for nearly 50 student organizations representing students with disabilities, graduate students, the MSU band, LGBTQ community, MSU athletes, residence hall community, and the Greek community, who were targeted for participation in such activities.

## Campus Committees

The University created two campus committees specifically designed to address relationship violence and sexual misconduct: (1) SVAC; and (2) VFC, which are described in more detail above. Through SVAC and VFC, the University conducts various focus groups and hosts forums and discussions on Title IX related topics. Students and employees can engage directly in SVAC and VFC or participate in their sponsored events and forums.

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<sup>36</sup> Available at: <http://www.titleix.msu.edu/information-reports/index.html>.

## Awareness Campaigns

MSU provided flyers that were developed by SARV as part of a sexual violence awareness and bystander intervention campaign funded by a grant from the Michigan Governor's office. These flyers were distributed to area high schools and the MSU community in the fall semester of 2017. The flyers all have a different message but a similar theme, and summarize what it is to be an active bystander, how to be an active bystander, and where to access additional resources on bystander intervention. We also reviewed flyers that included clear and concise messages around consent, sexual misconduct, and reporting such as:

**Consent Isn't Sexy,  
It's Mandatory**

**Abuse Is Not Love**

**The Absence Of A No,  
Does Not Mean Yes**

**Love Does Not Leave Bruises**

**Netflix & Chill ≠ Consent**

**Stop Blaming The Victim – Sexual  
Assault Is Never The Victim's Fault**

**What Would You Say?  
Anyone Can Be An Active Bystander**

We also reviewed flyers on targeted topics with more detailed information. For instance, some flyers cover key consent topics, such as withdrawing consent and the inability to consent while incapacitated. Others highlight "red flags" for relationship abuse. And some explain how to communicate about consent and suggest key phrases students can use to discuss what they may perceive as awkward conversations:

*"Is this okay?"*

*"Would you be into trying this?"*

*"Do you like this?"*

*"Does this feel good?"*

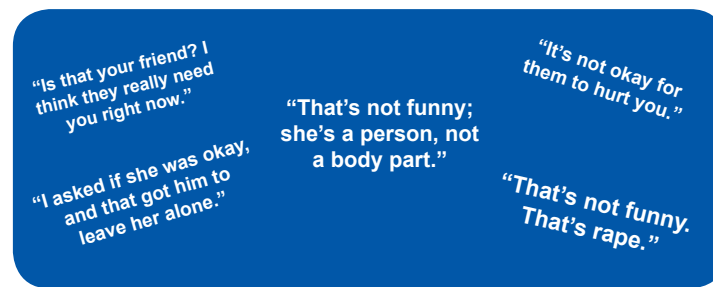
*"Should I keep going?"*

*"Are you okay?"*

## “It’s On Us” Campaign

OIE launched the University’s “It’s On Us” campaign in 2017, which built on the national “It’s On Us” campaign and replaced MSU’s home-grown campaign called “No Excuses.” The campaign included email communications containing updates on the campaign, various events which garnered attendance of more than 1,000 attendees, and external communications including social media and news articles, as well as various webpages.<sup>37</sup> The University also handed out “It’s On Us” cards containing information about resources and programming. The “It’s On Us” events were sponsored by MSU Athletics, MSU Safe Place, SAP, SVAC, OIE, and the SARV.

As part of the “It’s On Us” materials, we reviewed awareness posters and flyers, social media activity on Facebook and Instagram, and community emails from MSU’s Title IX Coordinator. These included messages emphasizing the need for the community to work together to stop sexual assault, relationship violence, stalking, and gender-based harassment and discrimination. Flyers associated with MSU’s “It’s On Us” campaign focused on changing how sexual assault is perceived and discussed at MSU, including messages such as:



The “It’s On Us” campaign materials also included information on how to make a report of sexual misconduct, how to get involved and where to find support and resources. MSU’s 2018 campaign will take place the first week of April.

## Support for Mandatory Reporting

MSU developed and distributed materials to support mandatory reporting, including:

- Mandatory Reporting Guide
- Responding to Disclosures Pocket Guide
- Title IX Cards
- RVSM Reporting Posters

Additionally, MSU sent an email to all faculty and staff at the beginning of the 2017-2018 academic year reminding employees of their reporting responsibilities and distributed materials to support mandatory reporting.

<sup>37</sup> MSU provided several documents containing “It’s On Us” outreach materials. These materials included: posters; an OIE informational flyers; a flyer for faculty & staff about responding to disclosures of sexual misconduct; copies of a “Welcome Back” email informing employees of updates to the University’s Policy; and a Relationship Violence and Sexual Misconduct Response Guide.



## SAP Community Programming

SAP provides programming consisting of sexual violence awareness presentations and multi-session workshops for the University community. Topics include: rape 101; myths and facts; consent; rape culture; drug-facilitated sexual assault; and risk reduction. Programs are designed specifically for the classroom, residence halls, and the sorority/fraternity system. Examples of such programs include:

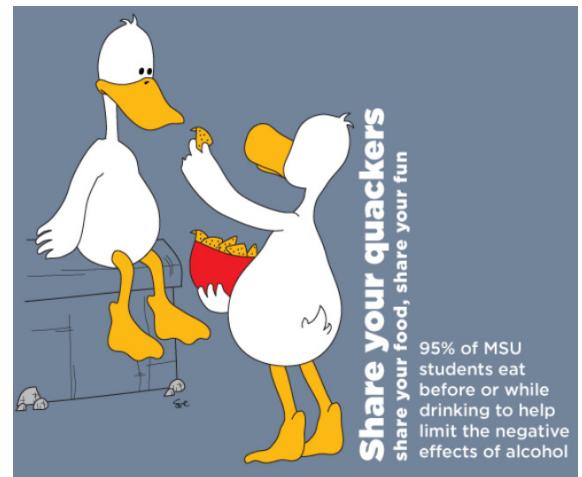
- Take 5 Toolkits (Sexual Assault Information, Safety Tips & Resources). Toolkits are distributed to all Resident Advisors for discussion in floor meetings.
- Safety Tips & Resources provided during the Academic Orientation Program.
- The e5m Social Action Theatre is an interactive group that promotes discussion surrounding issues of consent, dating, and sexual violence.
- Take Back the Night (TBTN) is an international event to bring awareness to and prevent sexual violence. It is conducted in collaboration with several service agencies in Lansing and at MSU.
- Sexual Assault Awareness Month activities in collaboration with Violence Free Communities by Design and TBTN Planning Coalition include Dinner & Film Series, Open-Mic for National Day to End Sexual Violence, and Operation Freefall.
- Undergraduate Seminar: Power, Privilege and Intimate Violence.

## Summary of Feedback on Awareness, Outreach and Engagement

Overall, participants in our discussion groups who demonstrated general familiarity with MSU's awareness, outreach and engagement efforts, and with the various awareness campaigns, including last year's "It's On Us" activities fell into two categories: (1) those who actively engage and participate in sexual prevention work; and (2) survivors of sexual misconduct. There was general sentiment from all participants, however, that "the average MSU student" is not aware of these efforts. Faculty and senior administrators reported not participating in such activities designed to increase awareness, and a number of student participants explained that they had never heard of the It's on Us campaign. Participants also reported a lack of familiarity with the awareness campaign materials around bystander prevention and sexual violence. Some suggested that MSU develop materials (e.g., pocket guide, Title IX cards), not knowing that they already exist.

However, many participants reported recognition of MSU's alcohol campaign, which prominently featured animated ducks and messages and statistical information about alcohol and substantive use and abuse. Many suggested that this style of "branded" campaign "caught on" and resonated with the MSU community.

Other than those actively involved in these committees, participants lacked familiarity with SVAC and VFC, and were unaware of these committees' efforts over the last two years and their work with OIE. Many participants asked for information that is specifically included in OIE's annual reports, of which participants were also generally unaware.



# Recommendations

# Recommendations

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The most glaring component of our phase 1 and phase 2 reviews is observing the significant divide between MSU's improvements to its Title IX program in the last few years and the University community's current perceptions of that program. Although MSU has a number of areas it can still improve upon—as we have highlighted in two lengthy reports—we see far more positives than negatives, in the efforts the University has embarked upon since late 2015.

But this conclusion does not resonate with the members of the MSU's campus community who participated in our discussion groups.

Before Nassar's sentencing, our view was that the disconnect between MSU's program improvements and the community's perception of the program was the result of two key problems: (1) unsuccessful communication efforts about this topic; and (2) University community members not prioritizing this issue as one impacting their own community. In the few months between our fall and winter visits, and after Nassar's sentencing, we noticed a shift on campus; the students, staff, faculty, and administrators whom we met with were clamoring for more information about sexual misconduct prevention. These are not all individuals familiar with the Title IX program. Many are new to this issue, but shared that they were motivated to join our discussion groups by the Nassar controversy. They want to help end sexual violence. And they appear willing to get involved.

While this perceived shift may not have occurred for every MSU community member, many participants expressed that the heightened level of interest and engagement from this tragedy is an opportunity for MSU to now lead its own movement in this area. The suggestions below come directly from MSU community members who want MSU to seize that opportunity.

## Concentrated Communications

Nearly all participants suggested that an effective communication plan should be a high priority for the University. As highlighted above, there is a significant degree of distrust and skepticism around MSU's Title IX work and the support of MSU's leadership in this area. To be clear, a flashy media splash and "spin" is not what this campus community desires. Instead, the participants we met with expressed interest in credible communications that will help support cultural changes, renew and emphasize MSU's values, and effectively disseminate relevant information to the campus community.

We acknowledge that this is much easier said than done. Indeed, MSU has already engaged in a number of communications efforts, awareness campaigns, and website expansions, without achieving the desired level of message-saturation. A clear example of this challenge is MSU's annual Title IX report. These reports rely on info-graphics and charts to present relevant information, and they avoid the lengthy narratives commonly utilized by other institutions. MSU's report has been pointed to as a model for other institutions' Title IX offices, particularly within other large institutions. Nonetheless, even with this more digestible format, based on participant input, MSU's own community does not seem fully aware of the existence of this resource.

Some suggestions towards this goal that we received in our discussion groups include: an MSU-sponsored app contest to develop a communications tool that MSU students will actually use; utilizing well-known and respected coaches, athletes and alumni for message campaigns; and expanding the reach of the OIE, SARV and SAP program staff so they can more actively engage in direct outreach and offer more in-person trainings that will reinforce a strong communications strategy. Many of the materials that we reviewed contain a wealth of information that participants noted would be useful to the community. Indeed, MSU has largely developed the right content, but it should find a manner to communicate that message to its broad community more effectively.

Further, we heard from a number of participants that there is a desire for a stronger message on sexual misconduct prevention from the most senior leaders of MSU. Many feel that MSU's previous communications on this topic "fell flat" or were disingenuous. Participants seem to be craving strong leadership in this area, as well as clear and consistent communications around how the University addresses and prevents sexual misconduct. Participants also expressed an interest in seeing the engagement of a diverse group of senior leaders in MSU's communications efforts. At the time of this report, we understand that MSU is currently evaluating ways to improve communications.

## Development of a Title IX App

In response to complaints about ineffective communication, discussed above, and the challenge of communicating a complex message to over 50,000 students, as well as staff and faculty, some discussion group participants suggested the use of an “app” that may reinforce education and prevention training and connect individuals with available resources when they need it. We have seen other institutions undertake this effort, either through homegrown apps or through partnerships with app developers. Institutions of all shapes and sizes appear to be experimenting with this approach. In just the last year, several institutions launched Title IX related apps, with policy information, resources, and support services readily available on smart phones.

For example, last year, one institution’s Title IX office partnered with an outside organization to develop an app that is available to students for free. The app provides members of the institution’s campus community with contact information to medical facilities, law enforcement, campus security, and the Title IX office, along with contact information for counseling support, among other resources and services. The institution reported that it typically relies on students’ reading and seeing visual materials on campus and online; the benefit of such an app is that it provides those resources to students on their phones, where the information is more easily accessible. Notably, the app is reported to address a key theme that we heard during our discussions groups, which is reinforcing information. Indeed, even though information about sexual misconduct is covered in training, having an app helps reinforce information that students may not otherwise retain from that session.<sup>38</sup> Further, an app offers students the benefit of having a quicker and easier way to be reminded of information that may have been shared with them months prior.<sup>39</sup>

We believe this suggestion is likely a cost-effective way for MSU, at a minimum, to reinforce awareness of its policies and resources, but more importantly, to provide easily accessible information that may be of use to someone in need of those resources or services. Balancing the need to be mindful of “message fatigue,” we also see potential for such an app to provide push notifications of important messages for the campus community. For these reasons, we believe this recommendation is worth exploring.

## New Year, New MSU Campaign

One of the most moving suggestions that we received was an idea from an MSU student in response to growing concerns amongst discussion group participants that by fall 2018, the MSU campus community will “fall back into old routines” and fail to seize an opportunity to change campus perceptions about sexual violence prevention and awareness. This student asserted that while MSU needs to heal and move forward, it should never forget the tragedy that so many women were sexually abused by a member of the MSU community. This student suggested that MSU initiate a “New Year, New MSU” campaign in the fall of 2018 in effort to maintain focus on sexual assault prevention and awareness and highlight the changes that will likely take place over the summer. Some students expressed that this campaign should “own” MSU’s recent history and acknowledge survivors.

Several students suggested that this campaign should be forward-looking, and emphasize accountability for the entire campus community, including students and student organizations. One participant suggested that this campaign emphasize avoiding an “us versus them mentality” between MSU leadership, faculty and students.

This suggestion is in direct alignment with recommendations that were presented by SVAC in their 2017 Report,<sup>40</sup> which emphasized the need for shared responsibility and more frequent, systemic and proactive communications. The discussion group that heard the New Year, New MSU idea from the student directly unanimously agreed with the approach and felt that it had the right balance of being forward-looking while acknowledging MSU’s current controversy and respecting survivors.

Participants in our discussion groups mentioned that the goal of such a campaign would be to motivate members of the MSU community to engage in sexual misconduct prevention because they have “bought in” and feel their participation is meaningful for them, as well as those around them.

<sup>38</sup> See also: Kang, *supra*, at 12-19.

<sup>39</sup> *Id.*

<sup>40</sup> 2017 SVAC Report, available at: [http://www.titleix.msu.edu/\\_files/documents/svac-spring-2017-toolkit-revised-april.pdf](http://www.titleix.msu.edu/_files/documents/svac-spring-2017-toolkit-revised-april.pdf).

## Freshman Seminar Course

During our discussions with students relating to MSU's education and prevention training, one recommendation continued to resonate throughout all our sessions with students. Specifically, students participating in the discussion sessions expressed significant interest in a meaningful freshman seminar course focused on issues relating to civility, relationships, sexual misconduct, discrimination, and public engagement.

Students expressed concern that they feel there is a gap in their education with respect to a number of practical topics that go beyond academics, but that relate to critical professional and personal development issues. Participating students articulated that this gap should be bridged by implementing a freshman seminar. While the student participants felt such a course should be broader than one topic, many felt that such a course would still allow for deeper and more meaningful engagement on the nuanced issues around gender discrimination, sexual violence, predatory behavior and healthy sexual relationships. Some participants felt such a course should be required for MSU students to support their transition into college and to teach students about "what it means to be a Spartan." Although only some student participants felt this should be a mandatory course, all student participants felt that such an offering should be for-credit.

Faculty and administrator participants expressed a mixed response to the idea, with some identifying competing academic requirements and overloaded academic schedules as potential barriers to such a course. Likewise, some expressed concern about the costs for developing such a course, particularly if mandated for over 8,000 incoming freshman. Some questioned whether student interest today, would translate to actual enrollment tomorrow.

On the other hand, a number of faculty and administrator participants felt these issues raised by others were not insurmountable and that a classroom environment could be a "positive atmosphere" for deeper engagement on issues including, but not limited to, sexual misconduct, healthy relationships, and bystander intervention. These faculty and administrators suggested that such a course could be supported by a cross-section of existing expertise already within the MSU academic community, which would not only showcase the work of existing faculty, but also make the development and implementation of such a course more resource-friendly. Both students and faculty felt that for such a course to be effective, it would need to be "critical, interactive and reflective," with a discussion-led focus and participation expectations and support for a wide array of diverse viewpoints. Students advocated for a commitment from MSU leadership to provide experienced and knowledgeable faculty to teach the course and lead discussion on what they anticipated may be difficult and challenging topics.

As students and faculty discussed this concept, a number of topics were presented to support a syllabus for such a course. These issues included: developing healthy relationships and promoting sexually safe behavior; preventing sexual and relationship violence; promoting healthy living practices and self-care; reducing the prevalence substance abuse; understanding and living in diverse communities; eliminating discrimination and harassment; and civility and free speech, particularly in the digital age. Many felt that the course could help MSU to "change its climate" and become a more inclusive community with greater appreciation for diversity.

We believe the students who made this suggestion have a strong case and that this idea, at a minimum, deserves further inquiry by the academic and curriculum experts at MSU. As further support for their suggestion, freshman seminars such as that described here receive overwhelming support in the higher education community and have become ubiquitous in American universities.

Defining features of freshman seminars are small class size and encouragement for students to speak in class and work together.<sup>41</sup> Components of such courses that may vary include the frequency and duration of class meeting times, content, pedagogy, and structure; credit hours and grading; and whether the course is required or an elective.<sup>42</sup> Although some variability exists, based on a review of the Big Ten universities, Ivy League institutions, and a variety of liberal arts colleges, freshman seminars across colleges and universities typically follow the same general format and seek to promote the same policy goals.

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<sup>41</sup> Padgett, R. D., Keup, J. R., & Pascarella, E. T., *The impact of first-year seminars on college students' life-long learning orientations*, p. 135, *Journal of Student Affairs Research and Practice*, available at <http://dx.doi.org/10.1515/jsarp-2013-0011>.

<sup>42</sup> Goodman, K.G. & Pascarella, E.T. *First-Year Seminars Increase Persistence and Retention: A Summary of the Evidence from How College Affects Students*, (2006), available at <https://www.aacu.org/publications-research/periodicals/first-year-seminars-increase-persistence-and-retention-summary>.

Freshman seminars are usually graded courses (either letter graded or satisfactory/unsatisfactory), offered for 1 to 3 credits, and convene 1 to 3 hours a week, on a semester or half-semester basis. To encourage highly interactive classrooms, enrollment is often restricted to approximately 12 to 24 students and courses focus on alluring content, such as current news and popular culture. In addition to helping students make the transition to college-level learning, freshman seminars are also intended to foster students' appreciation for the value of diverse opinions and promote the growth of well-informed, creative, literate members of society.

Most universities we sampled offer a wide-selection of freshman seminars, some offering over 100 courses per semester. The content of these courses varies widely, from “Be a Master Student” to “What is College, and What is it For.” Current freshman seminar offerings at Big Ten and Ivy League universities cover topics on discrimination, power imbalances, sexual misconduct, and civility—example course titles include:

- “Free Speech”
- “Civic and Community Engagement”
- “Exploring Otherness”
- “Beauty and Power”
- “#BlackLivesMatter”
- “Black Looks: Race, Gender, and Representation”
- “Masculinities in the Americas”
- “Violence Against Women in Opera”
- “Sex, Money, and Power in the Postcolonial World”

The underlying principle of these courses is promoting discussion of important social issues in an educational, non-political, and universally-applicable way by tethering the issue to literary works, music, film, and social media. For example, one course, “Violence Against Women in Opera” combines lecture, discussion, listening, and viewing of opera productions that depict different aspects of violence against women, which are uniquely suited to address the particular issues women are currently facing in the U.S.

“National data indicated that 94% of accredited four-year colleges and universities in the United States offer a first-year seminar to at least some students, and more than half offer a first-year seminar to 90% or more of their first-year students.”<sup>43</sup> The prevalence of freshman seminars can be attributed to the nearly universal research findings that freshman seminars positively impact student persistence, performance, and engagement outcomes.<sup>44</sup> For example, the University of Iowa reported that:

[T]he fall 2013 persistence rate for students enrolled in first year seminars was 88.3 percent versus 82.3 percent for those who did not enroll in a first-year seminar. The impact was even greater on Pell-eligible students' success, with a retention rate of 81 percent for those who participated in the first-year seminars versus a 74 percent retention rate for those who did not participate in a seminar.<sup>45</sup>

In addition to being educationally rewarding, freshman seminars are also growing rapidly in popularity with students and professors. The University of Iowa reported that “[i]n the fall of 2008, 25 sections were offered, enrolling 532 students; [in the fall of 2015], 131 sections are offered, enrolling 2,088 students.”<sup>46</sup> As for professor involvement, many universities implement a model where professors submit a proposal, and if the proposal is accepted, the professor is given a stipend or volunteer credit to support curriculum development, research, and teaching the course. Accordingly, professor support is instrumental to the development and success of freshman seminars, and professors bear the majority of the risk if the course is unapproved or unpopular.

Based on the performance and persistence metrics, student and professor support, and other associated community benefits, we believe freshman seminars on the proposed topics would provide a valued addition to MSU's freshman curriculum. As described above, interest in freshman seminars is high across the country, and to a large extent, freshman seminars on the proposed topics are already offered at comparable universities. Undoubtedly, such a course is not a panacea, and should be seen as just one component of a broader effort. As attorneys who work exclusively with institutions of higher education on a broad array of student

<sup>43</sup> Padgett, Keup, & Pascarella, p. 134.

<sup>44</sup> Id., p. 146.

<sup>45</sup> Gray, L.J., First Year Seminars foster Success, Iowa Now, (2015) available at <https://now.uiowa.edu/2015/10/first-year-seminars-foster-success>.

<sup>46</sup> Id.

issues, our group believes that such a course, if done well could have a positive ripple effect on *many* aspects of MSU's community and student experience, even beyond the topic of sexual misconduct prevention. Moreover, such a course would provide an engaging supplement to the University-sponsored training already provided on these topics.

We note that MSU already has the mechanisms in place to develop and offer freshman seminars in line with the students' suggestions. MSU currently offers freshman seminars that "offer a unique opportunity to work with university faculty and academic staff to explore issues that affect [students' lives]."<sup>47</sup> Guidance for credits, grading, scheduling, textbooks, and other variables for freshman seminars are detailed on MSU's website, under the Freshman Seminars, Faculty FAQ tab. MSU also has "Seminar Proposal Forms" available online for professors to submit proposals to teach freshman seminars on a volunteer basis. In fact, MSU even offers a similar 7-week, 1-credit course, "Go to Health" for small groups of approximately 20 students that covers a variety of health related topics, including healthy relationships. This was started in the early 2000's as a pilot, but has since become a popular class with a frequent wait-list. It was reported in our discussion groups that based on pre- and post-tests, evidence shows that even in these 7 week courses, students' attitudes about topics covered in class change. Those involved in the class suggest that the class could easily be expanded to a full semester, with more attention on sexual misconduct prevention.

Accordingly, the main obstacles to implementation of the proposed freshman seminar appear to be visibility and incentivizing professors to submit proposals and students to enroll in the courses; both of which are surmountable should the academic and curriculum experts at MSU support this idea.

## Training Improvements and Alignment

To summarize the themes we heard about MSU's education and prevention programs, participants expressed the view that the MSU community desires training that is "more," "better," and "efficient." We heard numerous recommendations that trainings should be streamlined and developed with more input from MSU's own community of experts. These themes touched upon specific recommendations such as:

- Improving training quality
- Delivering programming beyond online and peer educator trainings
- Using real-world scenarios
- Including experts
- Taking a conversational approach
- Moving away from "check-the-box" exercises
- Focusing on predatory behavior and "what people need to know"
- Engaging men as leaders in prevention
- Increasing training frequency
- Increasing specialized training tracks
- Infusing resources to support these efforts

At the same time, some participants expressed concern that trainings are too long and/or cumulative—there is a point where too much training leads to "training fatigue" and can "backfire" resulting in indifference. Participants suggested as a solution "smarter presentations" that included "nuanced questions" which are "more intriguing and engaging." Participants also pushed for a more principled approach, in that training should start from a place of positivity (e.g., "this is good for all of us, let's do it right"), as opposed to a "forced march."

While we agree with some participants' sentiment that training alone will not eliminate sexual misconduct and we also agree that training fatigue is a real issue, we believe that there is room for improvement in MSU's education and prevention training efforts. An efficient strategy for approaching this issue is to evaluate education and prevention training holistically across the University.

<sup>47</sup> Freshman Seminars on Campus, available at: <http://freshmanseminars.msu.edu/seminars/oncampus>.

MSU's current training programs vary, but generally focus upon three key categories: (1) awareness of the RVSM Policy and its reporting requirements and investigative process; (2) knowledge of the resources and services available to impacted individuals; (3) education around preventing sexual misconduct, including engaging in healthy relationships and bystander intervention. Notably, these categories are precisely aligned with the key topics covered in the vast majority of education and prevention training programs utilized by other institutions, including Big Ten institutions and other comparator schools, which we reviewed in comparison to MSU's training portfolio.

While we have seen a trend towards utilizing online, vendor-developed Title IX training programs, particularly of institutions of MSU's size, in our experience, these programs resonate more with their campus communities when the institution invests additional time and resources to customize the online program. Given the feedback we received from MSU community members who participated in our discussion groups, we are skeptical that an out-of-the-box online solution will resonate with this particular community.

That said, in working to improve the quality and reach of its training programs, we anticipate that MSU will need to rely upon significant staff inputted time to make improvements that will address the concerns raised by some members of its community. Further, rather than trying to improve upon each training program individually, and supplementing individual programs where there may be identified gaps, a holistic review would allow MSU to design a strategic education and prevention curriculum for each segment of its campus community. A holistic approach to this work would also allow the individuals currently involved in education and prevention training to build consistency through uniform branding and messaging alignment. It would also allow for MSU to incorporate more engaging and dynamic training program features.

Indeed, we have seen at least one institution that has mapped specific learning goals to specific learning activities for its Title IX related trainings, which occur both online and in person. Some of the more innovative and engaging learning activities include a "resource scavenger hunt," and "end of learning activity." The training also features some relatively engaging videos, including a video co-produced by It's On Us and College Humor called "*What If Bears Killed One In Five People?*"<sup>48</sup> The video features crime statistics about sexual violence against women. The training also features videos developed by the Rape Crisis Scotland campaign<sup>49</sup> that explains, through short animated videos, concepts such as responses to trauma, and victim reluctance to report. A popular video prominently featured in many institution trainings is a British video, "*Tea and Consent*," that explains consent through the analogy of having tea.<sup>50</sup> Participants must watch the videos in advance of the training before engaging in the in-person training which includes small group discussions.

Another trend we see in Title IX training programming is increased education for employees on the warning signs of sexual violence, relationship violence and stalking, and how to respond to disclosures. While there has been a focus on mandatory reporting in previous years, in response to employees asking for more information about how to respond to these reports, we are seeing more institutions including these concepts in their trainings. For instance, these topics include specific signs to look for, the concepts of power and control leading to violence, and talking points for how to respond to a disclosure of sexual violence, what to say, and tips for supporting that individual.

MSU has flexibility in its approach to improving its training offerings. We agree with participants' suggestions that a knowledgeable and experienced "owner" of this effort should be identified. Many participants suggested that the SARV program is a model that generally resonates with the MSU community and that with increased resources, could be expanded in its reach and depth.

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<sup>48</sup> Available at: <https://www.youtube.com/watch?v=LNVFPkmZTQ4>.

<sup>49</sup> Available at: <https://www.rapecrisisscotland.org.uk/i-just-froze/>.

<sup>50</sup> Available at: <https://www.youtube.com/watch?v=pZwvrXVavnQ>.



## Clarifying Responsibilities and Accountability for Title IX

The role of a Title IX Coordinator has grown significantly in the last several years. Indeed, OCR issued guidance on just this issue, outlining the degree of authority and autonomy it expects Title IX Coordinators to have in their work.<sup>51</sup> As a result, many institutions have significantly reformed and restructured the offices that handle sexual misconduct investigations, prevention, education, and outreach, and support services in this area.

A common theme we heard from participants in discussion groups was that they were uninformed or unaware of new staffing in OIE, and the different roles of the Director and the Title IX Coordinator. We also heard concerns that outreach campaigns and education and prevention programming occurring across campus may not be consistent. A concern we heard from a number of those involved in delivering education and prevention training is that they feel there is a lack of coordination and strategy in training development, delivery, and execution, with no clear curriculum for beginning, intermediate, and advanced training that serves all segments of the MSU community in a meaningful way.

Finally, we heard repeated concerns from participants that there is a lack of clear accountability for MSU's Title IX program; staff and faculty reported that they were not sure who was really "in charge" between OIE and MSU's senior leadership. Some participants feel this perceived lack of transparency attributes to a lack of trust in the process. One administrator specifically characterized this concern by saying, "There has to be trust in the process. One of the building blocks of that trust is an understanding of what the institution is doing and why, so you can hold them accountable." Many suggested that "owners" for components of the Title IX program, (e.g., investigations, prevention work, advocacy, and support services,) need to be identified.

After reviewing the OIE structure, we found that these concerns were not surprising. MSU currently has a Director of Institutional Equity (OIE Director)<sup>52</sup> and a Director of Title IX and ADA Compliance and Education Programs (Title IX Coordinator).<sup>53</sup> Both positions reside within the OIE and report to the President. Further, MSU's OIE and Title IX webpages and organizational chart create some confusion about the role and responsibilities of these two positions. For instance, MSU's Title IX webpage indicates that the OIE Director also serves as the Deputy Title IX Coordinator for Investigations, which is arguably a subordinate role to the Title IX Coordinator<sup>54</sup>. Last, the OIE organizational chart fails to identify any reporting relationship between OIE and the Deputy Title IX Coordinator for Athletics, the crisis and advocacy services units, as well as the sexual misconduct prevention program.

In surveying a number of comparator institutions, the majority of surveyed institutions identify a single senior leader with a broader administrative title that also includes some form of the title, "Title IX Coordinator," and who is ultimately responsible for Title IX compliance, (e.g., Director of Office of Institutional Equity & Title IX Coordinator; Associate Vice President & Title IX Coordinator). Apart from MSU, we have not found clear evidence that any of the institutions surveyed follow a model where the ultimate leadership for an institution's Title IX function appears to be shared.

In our experience, we find that the most robust Title IX programs are supported by an office structure that addresses each of the following key organizational goals:

- Clarity in office names, titles, and roles
- Clarity in accountability
- Consistency and coordination in training and messaging
- Appropriate degree of independence and authority, consistent with OCR guidance

Given the confusion among the vast majority of participants in the roles and functions of the members of MSU's Title IX "team" and the concern about alignment in the various components of MSU's broader strategy to address and prevent sexual misconduct, we recommend MSU evaluate this issue further. In our view, there is no "right" option though it might be helpful to ascertain whether MSU's current structure is the best approach for supporting fair and equitable investigations, supportive services and resources, and meaningful and impactful education and training, as well as accountability for those critical functions.

<sup>52</sup> This position is currently vacant.

<sup>53</sup> The title "Title IX Coordinator" is used on OIE's Title IX webpage. However MSU's OIE organizational chart shows this position listed as "Director, Title IX and ADA Compliance and Education Programs." To provide consistency, we refer to the position as "Title IX Coordinator."

<sup>54</sup> Available online at: <http://www.titleix.msu.edu/contact/index.html>.

<sup>51</sup> U.S. Department of Education's Office for Civil Rights, April 24, 2015 Dear Colleague Letter on the role of the Title IX Coordinator, available online at: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.

## Increasing Support to Meet Mental Health Services Demand

Participants expressed overwhelming concern that MSU has not provided adequate mental health resources, particularly for students. One participant stated, “If MSU is going to bring 50,000 students to what used to be a field, they have an obligation to provide the counseling that population needs because the community cannot absorb it. We can’t ask the community to bring in more private providers; the University needs to hire them.” Other participants supported this view and identified that CAPS is able to work with students with “higher-acuity issues” that community providers are less inclined to address.

In the spring of 2016, MSU participated in the National College Health Assessment (NCHA) survey, which is designed to gauge the health of college students.<sup>55</sup> The study is based on participants’ responses to NCHA’s online questionnaire, which covered a diverse set of health-related topics.<sup>56</sup> 5,000 MSU undergraduate students and 1,500 MSU graduate students were selected by random sample to participate in the study, but the final data contained only 1,003 usable responses.<sup>57</sup>

In the “victimization” portion of the study, participants were asked to respond to a variety of questions regarding whether or not they were involved in certain potentially harmful or troubling incidents in the past 12 months.<sup>58</sup> 26% of the participants responded affirmatively to at least one of the questions, indicating that they were victimized over the course of the previous year. Women were more likely than men to report sexual victimization, but both men and women reported experiencing it in the past year.<sup>59</sup>

It is also important to note that the study indicated that certain special populations were more likely to report some form of sexual victimization, including international students, members of fraternities and sororities, and students under the age of 24.<sup>60</sup> This correlation supports the University’s efforts to-date to focus on targeting special populations, and calls for the University to maintain, if not bolster, such efforts in the future.

The study also drew a correlation between the use of counseling services and sexual victimization.<sup>61</sup> In the “Mental Health Services” portion of the study, respondents were asked about their use of mental health services.<sup>62</sup> 37.4% of the respondents claimed to have ever received psychological or mental health services from some professional—33.2% reported receiving services from a counselor, therapist or psychologist; 14.0% from some other medical provider; 11.7% from a psychiatrist; and 4.5% from clergy.<sup>63</sup> However, the majority of respondents who reported sexual victimization in the past year also reported receiving mental health services at some point in the past – physically or sexually assaulted, 60.7%, attempted rape, 73.1%; raped, 78.9%; in emotionally abusive relationship, 59.7%.<sup>64</sup> While we recognize that SAP serves as the primary counseling service for survivors of sexual misconduct, CAPS provides supplemental services in this area. This correlation is therefore especially troubling in light of the MSU community’s feedback that campus counseling services are understaffed and unable to keep up with increased demand, and typically require long wait times. This finding supports further evaluation for an expansion of SAP and CAPs to ensure that victims of sexual misconduct and others, have access to counseling services when they need them.

As of the date of this report, we understand that MSU is already working to expand capacity for its counseling services and reduce wait times.

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<sup>55</sup> Hembroff, A.L., Ph.D., Michigan State University Student Health Assessment: Results of the 2016 NCHA Survey of MSU Students, (July, 2016), available at [http://www.olin.msu.edu/pdfs/msu\\_ncha\\_report\\_2016.pdf](http://www.olin.msu.edu/pdfs/msu_ncha_report_2016.pdf).

<sup>56</sup> Id. at 1-2.

<sup>57</sup> Id. at 1.

<sup>58</sup> Id. at 44.

<sup>59</sup> For example, 9.7% of women and 3.9% of men reported being touched sexually without their consent; 3.9% of women and 1.4% of men reported being the victim of attempted sexual penetration; 3.1% of women and 0.8% of men reported being the victim of rape; 4.7% of women and 1.9% of men reported being stalked; 9.7% of women and 5.4% of men reported being the victim of an emotionally abusive relationship; 1.6% of women and 2.7% of men reported being the victim of a physically abusive relationship; 1.6% of women and 0.8% of men reported being the victim of a sexually abusive relationship. Id. at 45.

<sup>60</sup> Id. at 46.

<sup>61</sup> Id. at 59-60.

<sup>62</sup> Id.

<sup>63</sup> Id.

<sup>64</sup> Id.

## Climate Survey and Social Norming Efforts

One suggestion for improving MSU's Title IX Program that we heard from our discussion participants was to leverage the National Social Norms Center (NSNC)—located at MSU—to support a robust campus climate survey and response. The social norms approach is a strategy for modifying behavior based on a study that found students frequently overestimate peer behavior. For instance, social norm studies indicate that students overestimate the frequency and amount of alcohol being consumed by their peers, while also incorrectly believing that others are more permissive of substance use than they actually are.<sup>55</sup> Thus, the social norms approach attempts to “correct individuals’ misperceptions about their peer groups by providing them with accurate information about their peers.”<sup>56</sup> This approach is employed by the NSNC to change students’ misperceptions about alcohol consumption, cigarette smoking, and marijuana use.<sup>57</sup>

In our discussion sessions, nearly all students were able to recall NSNC's related awareness campaigns which prominently feature ducks and statistical messages about these topics. Several individuals suggested that NSNC is well-positioned to help MSU develop a robust data-driven climate survey using the social norming approach to evaluate campus climate with respect to sexual misconduct. Others suggested that the survey instrument be designed to also collect information on sexual activity and healthy relationships, the results of which could be then utilized to combat perceived “rape culture.” While climate surveys can run the risk of low participation rates and skewed results based on those who self-select to participate in the survey, we agree that a carefully designed survey instrument could be a useful tool for quantifying current campus climate and measuring how improvements to MSU's Title IX program impact that climate. These results could also be used in a similar manner as the existing social norms campaign to drive subsequent outreach efforts and inform future awareness campaigns that may have meaningful impact for the MSU community. Further consideration should be given to the idea of including staff and faculty in such a survey.

Given the interconnections between alcohol issues and sexual violence, it is important to note that social norming efforts to reduce drug and alcohol abuse could also further this initiative. It is no novel concept that a reduction in alcohol consumption can reduce instances of physical violence, unintended injury, and exposure to sexually transmitted diseases; thereby contributing to a reduction in drug and alcohol related sexual misconduct and violence.<sup>65</sup> Therefore, on multiple counts, we think this is a worthwhile recommendation that should be explored with the NSNC.

## STEP Program for Area High School Students

In 2016, the SARV Program team and OIE drafted a proposal and program outline for a training program on prevention and awareness for high school students called Students Teaching and Empowering Peers (STEP). The proposal was motivated by data from the Centers for Disease Control that suggests that a high percentage of rape victims experienced the assault before the age of 18, coupled with an observed trend of seeing more survivors of sexual assault entering higher education and the impact that has on survivors' ability to achieve academic success.

As a result, the SARV and OIE team developed a grant proposal to build collaborative relationships with K-12 schools in the greater Lansing community and offer customized sexual violence prevention programming to high school students through a train-the-trainer model utilizing peer educators in their junior and senior years in high school. This program would cover topics such as consent, respect and healthy relationships. The proposal contemplated parent involvement and input, and highlighted key benefits for MSU to strengthen its community relationships and engage with potential students prior to enrolling at MSU and other institutions.

Notably, many MSU community members who participated in our onsite discussions voiced concern that sexual misconduct is a broader societal problem that institutions of higher education cannot solve alone. Students expressed specific concern from their own high school experiences that younger students are not getting adequate training and information about healthy relationships and interpersonal respect, how to prevent sexual violence, and bystander interventions.

Undoubtedly, the issue of sexual education in our nation's schools has been a controversial subject for decades. It is not for us to determine whether implementing such training in the greater Lansing area is possible. But in our experience investigating and advising institutions of higher education on student-on-student sexual misconduct cases, introducing these topics to college freshman is far too late. For this reason, we concur with participants who recommended MSU consider developing such a program. We recommend that MSU leadership explore revisiting the STEP proposal by connecting with local high schools and their communities, including parents, to discuss the potential interest, feasibility, and effectiveness of such a program.

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<sup>65</sup> Dartmouth Student Wellness Center, Social Norms Campaign, available at <http://www.dartmouth.edu/~healthed/focus/aod/norms.html>.

# Update From Phase 1 Report

# Update From Phase 1 Report

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On January 8, 2018, OIE implemented revisions to its RVSM Policy and a number of appendices to address key recommendations from our phase 1 report (“HB1”).<sup>66</sup> Though we will expand on this list in the final version of this report, we thought it would be helpful to the audience to have a summary of these changes. These changes also included revisions to the RVSM Policy appendices A, B, C, and I. These include:

- Revised definition of sexual harassment (HB1, p. 15)
- Clarified definition of consent so it is clear consent cannot be revoked retroactively (HB1, p.15)
- Added statement that the RVSM applies to individuals of the same sex (HB1, p. 16)
- Added statement that RVSM prohibits discrimination on the basis of national origin (HB1, p. 16)
- Moved definition of retaliation from appendix into RVSM (HB1, p. 17)
- Clarified information around interim measures (HB1, p.19, 22)
- Clarified role of advisor (HB1, p. 21)
- Clearly stated practice of concurrent notification of outcome (HB1, p. 21)
- Added order of protection information (HB1, p.22)
- Clarified statement of equal procedural rights (HB1, p. 25)
- Clarified investigator role (HB1, p. 27)
- Clarified definition of sexual exploitation (HB1, p. 27)

In addition to these initial changes, OIE is working on further updates to the RVSM Policy to address other issues highlighted in our Phase I report. OIE plans to deliver the updated RVSM Policy next academic year.

OIE is also in the process of making other, non-RVSM related updates, in response to our report. For example, in response to our above-referenced discussions regarding the need for concentrated communications, MSU added a communications director in late 2017, who is working on Title IX-related messaging and branding efforts to support more effective, efficient, and larger-scale outreach efforts. OIE has also noted that there a number of other recommendations from our first report on which it wishes to seek community input. For that reason, the Title IX Coordinator plans to host policy discussion groups during late spring and early summer semesters, with additional changes forthcoming in the fall semester, 2018. Further, starting in February of this year, MSU’s Police Department (“MSUPD”) will begin automatically sharing complaints about sexual assault and relationship violence that come into MSUPD with OIE, thereby facilitating coordinated responses between these two University offices.

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<sup>66</sup> The RVSM Policy revision history is available at: [https://www.hr.msu.edu/policies-procedures/university-wide/RVSM\\_policy.html](https://www.hr.msu.edu/policies-procedures/university-wide/RVSM_policy.html).

# Summary of Additional Information Provided by Participants

# Summary

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## Additional Issues

The participants in our discussion groups offered a wide variety of input on issues related to MSU's Title IX program and broader efforts regarding sexual misconduct and related topics. While some of these comments went beyond the scope of our charge in both phases of our review, we believe it would add value to MSU's Title IX program for the University to consider this input for future inquiry. For that reason, we offer the following summaries of additional themes that were raised repeatedly in our discussion groups.

## MSU's Reporting Requirement

A common debate on college and university campuses across the country also became a central focus of our discussion groups: many participants expressed concern that MSU's mandatory reporting requirement could undermine the trust that faculty build with students. Specifically, faculty participants expressed concerns that students may wish to confide in them, as trusted individuals they know and respect, as opposed to unknown individuals, designated as confidential resources. These faculty members felt that if they are required to report such conversations to OIE, in circumstances where the individual does not grant permission, that report may make those individuals feel powerless and lacking in control and agency. Some faculty participants also suggested that mandatory reporting may deter those individuals from confiding in faculty. Further, participants expressed concern that if "every lewd joke must be reported," that mandatory reporting of that type of conduct would divert limited resources away from, and undermine, actual reports of sexual harassment and sexual misconduct.

At the same time, a number of faculty and staff participants defended MSU's reporting requirement. They believed that reporting is necessary because there is too much potential for miscommunication or unaligned expectations between a disclosing party and the person receiving a report of sexual misconduct. These participants expressed concern that, should reporting become optional, employees may not fully know or appreciate a survivor's expectations around a disclosure, and that leaving discretion in this decision could be fraught with potential for reports of sexual misconduct to go unaddressed. One faculty participant emphasized that not every report results in an investigation and that a report to OIE triggers "nothing more than" an email to the individual explaining their options and the resources available to them, but does not pressure an individual to meet or take further action.

Undoubtedly, this is a common debate amongst faculty on many campuses. We are concerned, however, that this robust discussion, particularly during faculty discussion groups, may reflect, at minimum, a misunderstanding of MSU's underlying policy goals behind the reporting requirement. This debate could also be indicative of a lack of support for, and acceptance of, MSU's mandatory reporting requirement. For this reason, we recommend that MSU consider engaging with faculty about this issue and provide a forum for this issue to be discussed.

## Follow-Up With Mandatory Reporters

Many faculty and staff members raised repeated concerns that once they make a report to OIE, they are abruptly excluded from the process with little to no follow up from OIE. Faculty, in particular, expressed interest that once they make a report to OIE on behalf of a party who disclosed an incident of sexual misconduct to them, they feel "left in the dark" as to whether OIE has indeed followed-up with the disclosing party. Faculty and staff alike expressed concerns that they would like information about what they can, should, or should not be doing to support the individual who initially came to them to disclose their experience. Some participants recognized that the lack of follow up communication may be an effort to protect the disclosing party's privacy or could be the result of understaffing. But a number of the participants in our discussion groups expressed the view that OIE should engage in at least minimal follow-up with mandatory reporters to ensure that the information reported is indeed being addressed.

While online reports trigger automatic notices to the reporting party regarding OIE's follow-up expectations along with additional information about the process and resources, we recommend that MSU consider engaging with staff and faculty about this issue and provide a forum for this issue to be discussed.

## Minors Training

Some participants were interested in learning more about efforts that MSU takes to ensure that minors are safe and protected while on campus for public events, youth camps and enrichment programs. These participants expressed concern that they were unaware of specific policies governing programs and activities that support minors and were unsure whether MSU's RVSM Policy would apply in those contexts with respect to sexual misconduct or abuse.

Because MSU's Youth Programs office provides support and training, among other things, for program administrators and staff involved in minors-serving programs, we recommend that MSU consider engaging with staff and faculty about this issue and provide a forum for this issue to be discussed.

## HR and Management Training

Members of the senior leadership, including Deans, Vice Presidents, and senior administrators, expressed significant interest in learning more about constructive human resources-related concepts, such as staff management strategies, evaluating culture and climate within business units, and how to evaluate and handle sexual misconduct allegations. Some supervisors confided that, at times, they feel unprepared for the personnel-related issues that arise, particularly when they involve allegations of sexual misconduct or climate issues involving a staff or faculty member. These participants also expressed concern that they feel being put in awkward position when rumors start circulating about an OIE investigation involving their unit or department, before OIE notifies them of the investigation. Many participants suggested more targeted discussions with the Office of Human Resources as well as OIE about what information, if any, can be shared with them during an investigation; why certain information can or cannot be shared; tips on what managers should look for as signs of climate or culture problems within their unit or department; and how to address sexual misconduct allegations when they arise.

## Enhancing Student Affairs

A number of faculty, staff, and student participants expressed a variety of concerns about the level of staffing and responsiveness of the Office of Student Affairs. They worried that MSU's student affairs office is not resourced in a way to provide the level of support that the MSU community needs. Some faculty member participants noted that prior to coming to MSU, they worked at institutions where student affairs team members worked closely with faculty as active partners to support academic work. These participants questioned whether faculty views the Office of Student Affairs in the same way; that is, as a resource to support their work. Others estimated that the level of staffing within MSU's Office of Student Affairs was not on par with other institutions of MSU's size.

These participants also raised concerns that the role of MSU's Office of Student Affairs in the Title IX student conduct sanction and appeals processes may result in case delays, particularly with respect to appeals. Other participants expressed concern that this office is unable to provide adequate attention to MSU's sexual misconduct prevention programming efforts. Given the significant role of student affairs professionals in MSU's Title IX program, some suggested that this is an area that MSU should consider as part of its Title IX program improvement efforts.

## Inclusivity

A number of undergraduate and graduate students, as well as staff members, expressed the view that while MSU's leadership is, understandably, focused on sexual misconduct, they wish to advocate for continued attention to other concerns prevalent on campus, such as race discrimination, support and inclusivity for MSU's international students, accessibility for those with disabilities, and preventing gender stereotyping, sexual orientation discrimination, and sexual harassment. These participants emphasized that they want to support survivors of sexual misconduct, but want to also support a more inclusive environment at MSU more broadly. These participants asserted that other serious issues exist on campus, including "hostile micro-environments," which they feel should also be addressed as part of MSU's efforts to change culture and redefine its values.



## Due Process

A few participants in our discussion groups in the fall raised questions about adequate due process for those accused of sexual misconduct. At the time of these onsite visits, participants were expressing concerns about whether respondents had access to resources such as counseling services, advocacy and legal services. In the winter, this tone changed. Discussion groups were very clearly focused on supporting survivors, ensuring a swift investigation process, and taking strong and quick action against policy offenders. Some student participants expressed dismay that individuals investigating reports of sexual misconduct may not be “victim-friendly.”

We suspect that some portion of this shift stemmed from the increased attention that resulted from the Nassar sentencing hearings, which occurred just prior to our winter visits. If this assumption is correct, this change in participants’ focus is indicative of how the national debate has vacillated in recent years regarding the proper balance between supporting survivors and ensuring due process. The balance institutions must strike on this issue is paramount. Bias, an uneven playing field, or a preconceived notion in an investigation not only give rise to potential legal vulnerability, but they undermine the credibility of an institution’s process overall, and ultimately harm the campus community. Given the varying views expressed during our discussion groups on this issue and the importance of institutions ensuring an equitable investigation, MSU may wish to consider forums and discussions with its community to “demystify” its Title IX program. Some key issues that could be addressed in such settings include the University’s efforts to ensure due process, maintain neutrality, reduce and eliminate bias, and the underlying reasons for those efforts. Further, these discussions could also touch upon MSU’s strategies for providing advocacy and support services, and for conducting fair investigations.

# Conclusion

# Conclusion

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As described in this report, MSU's efforts to provide meaningful and impactful education and prevention programs related to its Title IX process and support services and to promote awareness and outreach around sexual misconduct prevention and resources, have been met with mixed reviews. The members of its campus community who participated in discussion groups with us in the fall of 2017 and winter of 2018 overwhelmingly concluded that there is room for significant improvement in the areas addressed in this report. Significantly, this conclusion came as no surprise to—and was seconded by—the administrators and staff members who work to support MSU's Title IX program by investigating complaints, counseling those impacted, and training the University's community about this issue.

While the group of participants in our discussion groups may not be representative of the entire MSU community, the themes summarized in this report reflect a number of concerns that were repeatedly raised, in unison, by a diverse cross-section of the University's community, from students to senior administrators, from faculty to staff. And the recommendations contained in this report come directly from the community itself. For these reasons, we strongly suggest that the University carefully consider the recommendations and input collected as part of our review as it works to implement changes to its Title IX program.