**Protocol for Coordinated Response Between FASA, OER, OCR, OHS, HCI, and Unit Leadership of Reported Violations of MSU Office For Civil Rights Policies**

1. **Purpose and Coverage**

This protocol serves to outline the roles and responsibilities of offices in responding to known reports alleging employee[[1]](#footnote-2) violations of the ***Relationship Violence and Sexual Misconduct and Title IX Policy (RVSMTIX Policy)***, the ***Anti-Discrimination Policy (ADP),*** and the***Mandatory Reporting for Relationship Violence, Sexual Misconduct and Stalking Policy (RVSM Mandatory Reporting Policy)***in order to (1) increase communication, transparency, and accountability; (2) ensure a seamless interconnection among the different offices and unit administrators within the university; (3) enable a process for immediate review and action (if deemed necessary) by the appropriate offices and unit administrators; and (4) comply with university policies and regulatory requirements.[[2]](#footnote-3)

The offices to which this protocol applies include:

**FASA:** Faculty and Academic Staff Affairs

**OER:** Office of Employee Relations

**OCR:** Office for Civil Rights and Title IX Education and Compliance, which includes:

* **OIE:** Office of Institutional Equity (Initial response & investigations)
* **RO:** Resolution Office (Hearings, student sanctions, remedies, decisions)
* **SIT:** Support and Intake Team (Interim and supportive measures)
* **ERO:** Equity Review Officer (Appeals)

**Administrative Unit Leadership**: appropriate administrators and leadership of

Respondent employee’s unit

**HCI:** MSU Health Care Inc.

**OHS:**  MSU Office of Health Sciences

Unique circumstances of a given report may generate issues not addressed by this document and may necessitate communication among units to ensure a swift, equitable, appropriate, and supportive coordinated response.

1. **First Notification to FASA /OER and Administrative Unit Leadership of Reports to OCR**
2. **Initial Notification of Report to OCR**: OCR will notify FASA and/or OER and administrative unit leadership of reported violations involving employees as respondents.
	1. OCR will notify FASA of reports involving respondent faculty, academic staff, graduate students[[3]](#footnote-4), executive management, and no pay appointees.
	2. OCR will notify OER of reports involving respondent support staff.
	3. *OCR will also notify employee respondent’s unit leadership and appropriate administrators.*
		1. For academic units, Deans and the second Administrator delegated by the College will be notified.
		2. For non-academic units, the major administrative unit head and/or local HR Administrator will be notified for the following units: Department of Intercollegiate Athletics (DIA), MSU Department of Police and Public Safety (DPPS), Student Life and Engagement (SLE), Residence Education and Housing Services (REHS), Infrastructure, Planning and Facilities (IPF), Information and Technology (IT), and MSU Extension. For all other units, the notification will be sent to OER, and OER will identify the most appropriate individual(s) to include on the notification.
3. **Format:** Notifications will occur by email, unless circumstances warrant more immediate action.
4. **Timing:** The notification will generally occur within five (5) business days of the report to OCR. OCR may accelerate or delay the notification depending on safety concerns, risk of retaliation, law enforcement activity, or other relevant factors. FASA/OER and unit administrators will always be notified when a Notice of Investigation is sent to the parties.
5. **Contents of Notification:** Generally, the notification will include the following (if known):
	1. Identity of Respondent;
	2. Alleged policy violation(s);
	3. Details of reported conduct (initial notifications may have limited information);
	4. Any prior reports of misconduct made about Respondent to OCR; and
	5. Notice that if interim action or administrative removal is considered, the Title IX Coordinator or SIT (ocr.set@msu.edu) should be consulted prior to any action.
	6. Statement that retaliation is strictly prohibited.
6. **Identification of Additional Notification Recipients:** FASA, OER, or unit leadership will identify additional supervisors or administrators who need to be aware of the reported conduct and inform OCR of any request to include additional recipients on future notifications or updates for that specific case, particularly for employees who may hold multiple assignments or appointments.
7. **Privacy & Integrity:** To maintain privacy and facilitate preservation of information for the processes under the RVSMTIX policy and ADP, sharing of information about reported conduct must be limited to those who need to know.
	1. Names of claimants may not be shared if there are concerns for privacy, safety, and/or retaliation. If FASA/OER and unit administrators are not able to respond or remediate the behavior without the claimant’s identity, they can contact OCR to discuss.
8. **MSU Health Care**
9. Coordinated response to cases involving respondent faculty providers credentialed by HCI and respondent support staff who work in HCI will follow all provisions of this Protocol except as stated in this section.
10. If reported allegations indicate that a respondent may be an HCI faculty provider or support staff, OCR will confirm by contacting HCI risk management.
11. **Notification group:** After OCR confirms that the respondent is a faculty provider or support staff credentialed or working in HCI, OCR will notify the following individuals:
	1. **Faculty Provider**: If respondent is an HCI provider, OCR will notify the following:
		1. FASA
		2. Dean (College of Human Medicine, College of Osteopathic Medicine, or College of Nursing, as applicable)
		3. Chief Executive Officer, HCI
		4. Chief Medical Officer, HCI
		5. Chief Nursing Officer, HCI
		6. Risk Manager, HCI
		7. Assistant Vice President for HR, OHS
		8. Health Care Civil Rights Specialist, OCR
	2. **Support Staff**: If respondent is HCI support staff, OCR will notify the following:
		1. OER
		2. Human Resources, HCI
		3. Assistant Vice President for HR, OHS
		4. Chief Executive Officer, HCI
		5. Chief Medical Officer, HCI
		6. Chief Nursing Officer, HCI
		7. Risk Manager, HCI
		8. Health Care Civil Rights Specialist, OCR
12. **Timing**
	1. For reports involving respondent faculty providers who reportedly engaged in conduct in violation of the RVSMTIX Policy, OCR will send a notification to HCI after confirming that the respondent faculty provider is credentialed through HCI.
	2. For all other reports involving HCI providers and staff, OCR will follow the timing of this protocol Section II.3.
13. **Interim Actions Meeting**: If the reported conduct could be a violation of the RVSMTIX Policy, ADP or both, HCI Risk Management will convene appropriate supervisors, HCI HR, OER, the Office of the General Counsel (OGC), and OCR to determine any interim employment actions, including (i) change to assigned clinical duties and responsibilities; and (ii) actions related to non-clinical staff roles.[[4]](#footnote-5)
14. **Supportive Measures and Interim Employment Actions**
15. **Overview:** The Title IX Coordinator and designees (Deputy Title IX Coordinators and SIT) are responsible for assisting parties involved in OCR policies and processes, regardless of the filing of a report or formal complaint, with obtaining reasonable and available supportive measures.
16. **Contact Information:** SIT can be reached via email at ocr.set@msu.edu. The Title IX Coordinator and Executive Director and Senior Deputy Title IX Coordinator can also be reached at oie@msu.edu.
17. **Definitions:**
	1. **Supportive Measures:** are “non- disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge, to the claimant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.” Supportive measures may or may not be time limited, provided that measures remain effective, appropriate based on the totality of circumstances, reasonably available and non-disciplinary.

Supportive measures are designed to restore or preserve equal access to MSU’s education programs or activities, including but not limited to protecting the safety of all parties or the University’s educational or employment environment or deterring conduct prohibited under the RVSMTIX Policy and ADP. Supportive measures will not unreasonably burden the other party.

Supportive measures may include referrals to confidential resources; extensions of deadlines or other adjustments; modifications of work schedules; mutual no contact directives; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the campus; interim administrative leave prior to or following of a formal complaint and through the final resolution of the formal grievance process; and other similar measures.

* 1. **Interim Employment Actions:** Unit administrators, in consultation with FASA/OER and OCR, may implement interim employment actions, including administrative leave, consistent with the University’s rights as an employer. Interim employment actions are designed to be temporary and non-punitive.
1. **Roles and Responsibilities:**
	1. After notification, as appropriate, FASA or OER will convene a meeting with unit leadership, OGC, and the Title IX Coordinator or designee to discuss interim employment actions or supportive measures related to the OCR case.
	2. Unless otherwise specified by FASA and/or OER, implementation of supportive measures and interim employment actions are the responsibility of the administrative unit leadership.
	3. Interim employment actions and supportive measures should be kept confidential and only shared to the extent an individual needs to know to effectively implement the interim employment action or supportive measure.
	4. OCR will consult with unit administrators and/or FASA/OER before issuing a No Contact Directive (NCD) to employee parties to ensure reasonableness and feasibility of enforcement of the NCD.
	5. If there are time-sensitive safety concerns, FASA and/or OER and administrative units may implement immediate supportive measures and/or interim employment actions prior to consultation with the Title IX Coordinator or designee. In such cases, the following should be considered:
		1. Decision makers must be equitable at all times regardless of whether a party is a claimant or respondent.
		2. Decisions must not be made based upon fixed rules or operating assumptions that favor one party over another.
		3. Measures must be individualized and appropriate based on the specific needs and information reasonably available.
		4. FASA and/or OER or the administrative unit must promptly notify SIT at ocr.set@msu.edu.
		5. Although an administrative unit should consult FASA and/or OER in advance, if an administrative unit implements immediate supportive measures and/or interim employment measures absent consultation with FASA and/or OER, the administrative unit must immediately notify FASA and/or OER.
		6. If employment actions are taken pursuant to other policies, the Title IX Coordinator, a Deputy TIX Coordinator, or SIT Team should be promptly notified in all cases in which there is a known, open report under the RVSMTIX Policy or ADP. The Title IX Coordinator (and designees) will not have involvement in such decisions.
	6. OCR will notify FASA and/or OER and administrative units of reported conduct not covered or otherwise dismissed or closed under the policies OCR enforces***,*** but that may fall within the purview of other policies, protocols, or standards of conduct.
2. Individuals receiving status updates, including FASA, OER, and HR, generally have a role in determining and implementing employment actions. Therefore, they should not serve as a support person or advisor in the investigation or resolution process.
3. **Status Updates and Information Sharing**
4. OCR will provide regular status updates to FASA and/or OER and to administrative unit leadership.
	1. OCR will provide FASA and/or OER and administrative unit leadership bi-weekly status updates about its open cases that have not been closed.
	2. OCR will send copies of Formal Complaints and Notices of Investigation to FASA and/or OER and administrative unit leadership.
	3. FASA and/or OER and administrative unit leadership may contact OCR to request updates as needed.
5. Prior to and/or during the formal grievance process, OCR may provide additional information to FASA and/or OER and administrative unit leadership to support continued efforts to provide an equitable, safe work environment and to address emerging concerns in the work environment.
6. FASA and/or OER and administrative unit leadership will promptly share information with OCR to the extent that it may be relevant to investigations and hearings (*e.g*., a party has resigned from employment, a party is subject to another investigation for other conduct).
7. OCR will notify FASA and/or OER and administrative unit leadership of the outcome of an initial assessment and, if applicable, formal grievance process, including notification of conduct that did not meet the definition of prohibited conduct covered by the *ADP or RVSMTIX Policy* and may fall within the purview of other policies.
8. If during the initial assessment and/or formal grievance process, OCR identifies recommendations relating to unit policies, procedures, protocols, training, education, or other personnel matters, OCR will provide such information to administrative unit leadership and FASA and/or OER in the form of a memo. FASA and/or OER and administrative unit leadership will review and consider the recommendations and, where appropriate, implement the recommended actions. Administrative unit leadership will maintain written documentation of the response including documentation of implementation and justification for any recommendations which were not implemented. Administrative unit leadership is responsible for providing the foregoing documentation to the RO.
9. **Coordination of Employment Actions Following Conclusion of the OCR process**
10. **Notification of Final Determination**: When OCR’s grievance process results in a finding that an employee violated the ***ADP, RVSMTIX Policy,*** or ***RVSM Mandatory Reporting Policy***, OCR will notify the parties, FASA and/or OER, and Respondent employee’s administrative unit leadership.
11. **Discipline/Employment Actions**: After notification of a finding of responsibility, FASA or OER will convene a meeting with unit leadership, Office of General Counsel, and the Title IX Coordinator or designee to determine appropriate discipline and/or other employment actions in accordance with applicable policies and consistent with the University’s rights as an employer. FASA or OER will promptly inform the RO of timely implementation of discipline or other employment actions.
12. **Notification of Discipline to Parties**: Simultaneous written notifications will be provided to Claimants and Respondents when discipline is imposed on an employee resulting from a finding that the employee violated the ***ADP*** (\*gender discrimination and retaliation based on gender claim only) or ***RVSMTIX Policy***.[[5]](#footnote-6) RO is responsible for communicating notifications of discipline/other actions to Claimants only when discipline is imposed on an employee resulting from a finding that the employee violated the ***ADP*** (\*gender discrimination and retaliation based on gender claim only) or ***RVSMTIX Policy*** or if the University has placed a restriction on future hire of a former employee. OER and/or FASA and the administrative unit will coordinate with RO to effectuate simultaneous notification from the administrative unit to employee Respondent and RO to Claimant.
	1. If a Claimant is not affiliated with the University, the administrative unit will include a statement in the written discipline to the employee receiving discipline that the University is notifying the Claimant of the disciplinary action.
	2. If discipline is later altered as a result of an employee grieving the discipline (or for any other reason), OER and/or FASA will immediately inform RO, and RO will notify Claimant of the change in discipline.
13. **Personnel Files**
14. At the conclusion of the investigation and formal grievance process for matters involving employee Respondents under the ***RVSMTIX*** ***Policy*** and ***ADP*** (\*gender discrimination and retaliation based on gender claim only), the ERO will provide a summary of the allegations and findings to include in the employee Respondent’s personnel file. The ERO will send the summary to AVPHR.FileReq@msu.edu for inclusion in the official personnel file in Human Resources. The ERO will also send the summary to Respondent employee’s administrative unit leaders to include in any unit personnel file. The summary shall provide sufficient detail for a reasonable reviewer to identify potential patterns of behavior and indicate whether a finding of violation was made.
15. Where the investigation and formal grievance process resulted in a finding that an employee violated the ***RVSMTIX Policy*** or ***ADP*** (\*gender discrimination only), Respondent employee’s administrative unit leadership is responsible for ensuring that any discipline imposed is in writing and included in the Respondent employee’s personnel file.

Created March 19, 2018.[[6]](#footnote-7)

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1. This Protocol does not apply to undergraduate student employees. [↑](#footnote-ref-2)
2. This Protocol furthers the purpose of applicable policies and does not supersede those policies. [↑](#footnote-ref-3)
3. OCR will only notify FASA of reports involving graduate students to the extent that the report pertains to the graduate program or employment. [↑](#footnote-ref-4)
4. MSU Health Care Policy ADM-106, *Coordinated Response to Reports of Potential Sexual Misconduct*¸ may apply. [↑](#footnote-ref-5)
5. Notification will occur as soon as reasonably practicable after employee discipline is final. [↑](#footnote-ref-6)
6. Originally titled “Protocol for the Coordination of Reported Violations of the RVSM and ADP between OIE, FASA, OER, and Unit Leadership.” [↑](#footnote-ref-7)