

**PROTOCOL FOR COORDINATED RESPONSE BETWEEN FASA, ELR, OCR, OHS, HCI, AND UNIT
LEADERSHIP OF REPORTED VIOLATIONS OF MSU OFFICE FOR CIVIL RIGHTS POLICIES**

NOVEMBER 1, 2024

I. PURPOSE AND COVERAGE

This protocol serves to outline the roles and responsibilities of offices in responding to known reports alleging employee¹ 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

The offices to which this protocol applies include:

FASA: Faculty and Academic Staff Affairs

ELR: Employee and Labor Relations

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

- **ISR:** Investigation, Support, and Resolution (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.

In addition, University Communications may be engaged where there are media inquiries or when contemplating an internal or external communication related to reports of employee misconduct.

¹ This Protocol does not apply to undergraduate student employees.

² This Protocol furthers the purpose of applicable policies and does not supersede those policies.

II. DEFINITIONS

- a. **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.
- b. **Other Interim Employment Actions:** Unit administrators, in consultation with FASA/ELR 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. An interim employment action may include a reassignment of the respondent and/or removal of duties from the respondent, pending the OCR process. Interim employment actions are assessed and determined individually based upon the nature of the allegations. The decision is communicated to the employee in writing.
- c. **Remedies:** are designed to restore or preserve a claimant’s equal access to the University’s education programs or activities and may include counseling, academic accommodations, academic support, or employment accommodations. Other remedies may include targeted or broad-based educational programming or training.
- d. **Party:** a claimant or respondent as defined in the RVSMTIX Policy or ADP.

III. FIRST NOTIFICATION TO FASA /ELR AND ADMINISTRATIVE UNIT LEADERSHIP OF REPORTS TO OCR

1. **Initial Notification of Report to OCR:** ISR will notify FASA and/or ELR and administrative unit leadership of reported violations involving employees as respondents.
 - a. ISR will notify FASA of reports involving respondent faculty, academic staff, graduate students³, executive management, and no pay appointees.

³ OCR will only notify FASA of reports involving graduate students to the extent that the report pertains to the graduate program or employment.

- b. ISR will notify ELR of reports involving respondent support staff.
 - c. ISR will also notify employee respondent's unit leadership and appropriate administrators.
 - i. For academic units, Deans and the second Administrator delegated by the College will be notified.
 - ii. 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 FASA/ELR, and FASA/ELR will identify the most appropriate individual(s) to include on the notification.
2. **Format:** Notifications will occur by email, unless circumstances warrant more immediate action.
3. **Timing:** The notification will generally occur within five (5) business days of the report to ISR. ISR may accelerate or delay the notification depending on safety concerns, risk of retaliation, law enforcement activity, or other relevant factors. FASA/ELR and unit administrators will always be notified when a Notice of Investigation is sent to the parties.
4. **Contents of Notification:** Generally, the notification will include the following (if known):
- a. Identity of Respondent;
 - b. Alleged policy violation(s);
 - c. Details of reported conduct (initial notifications may have limited information);
 - d. Any prior reports of misconduct made about Respondent to ISR; and
 - e. Notice that if interim action or administrative removal is considered, the Title IX Coordinator or designee (ocr.sit@msu.edu) should be consulted prior to any action.
 - f. Statement that retaliation is strictly prohibited.
 - g. Statement on Privacy of Information
5. **Identification of Additional Notification Recipients:** FASA, ELR, 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.
6. **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.
- a. Names of claimants may not be shared if there are concerns for privacy, safety, and/or retaliation. If FASA/ELR and unit administrators are not able to respond or remediate the behavior without the claimant's identity, they can contact OCR to discuss.

7. OCR will notify FASA and/or ELR 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.

IV. MSU HEALTH CARE

1. 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.
2. If reported allegations indicate that a respondent may be an HCI faculty provider or support staff, ISR will confirm by contacting HCI risk management.
3. **Notification group:** After ISR confirms that the respondent is a faculty provider or support staff credentialed or working in HCI, ISR will notify the following individuals:
 - a. **Faculty Provider:** If respondent is an HCI provider, ISR will notify the following:
 - i. FASA
 - ii. Dean (College of Human Medicine, College of Osteopathic Medicine, or College of Nursing, as applicable)
 - iii. Chief Executive Officer, HCI
 - iv. Chief Medical Officer, HCI
 - v. Chief Nursing Officer, HCI
 - vi. Risk Manager, HCI
 - vii. Assistant Vice President for HR, OHS
 - viii. Health Care Civil Rights Specialist, OCR
 - b. **Support Staff:** If respondent is HCI support staff, ISR will notify the following:
 - i. ELR
 - ii. Human Resources, HCI
 - iii. Assistant Vice President for HR, OHS
 - iv. Chief Executive Officer, HCI
 - v. Chief Medical Officer, HCI
 - vi. Chief Nursing Officer, HCI
 - vii. Risk Manager, HCI
 - viii. Health Care Civil Rights Specialist, OCR
4. **Timing**
 - a. For reports involving respondent faculty providers who reportedly engaged in conduct in violation of the RVSMTIX Policy, ISR will send a notification to HCI after confirming that the respondent faculty provider is credentialed through HCI.
 - b. For all other reports involving HCI providers and staff, ISR will follow the timing of this protocol Section III.3.
5. **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,

FASA, ELR, 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

V. INITIAL REVIEW AND ACTIONS

1. **Overview:** Coordination among offices is required to effectuate institutional compliance with the laws and policies that require a prompt and effective response to reports of discrimination and harassment and require OCR to, among other things:
 - a. offer and coordinate supportive measures to parties,
 - b. take other prompt and effective steps to ensure that prohibited discrimination and harassment does not continue or recur within the University's education program or activity;
 - c. eliminate any hostile environment and its effects;
 - d. coordinate the provision and implementation of remedies provided to claimants;
 - e. coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the claimant of the discipline, and
 - f. document the actions the University took to meet its obligations.
2. **Roles and Responsibilities:**
 - a. After notification, as appropriate, FASA or ELR will convene a meeting with unit leadership, OGC, and the Title IX Coordinator or designee. If the initial review pertains to a supportive measure request made by a party through ISR, then ISR may convene the meeting.
 - b. At the meeting:
 - i. ISR will summarize the information gathered to date; identify information still needed that may be obtained from the group convened or elsewhere; and explain any supportive measures requested or otherwise identified for consideration that impact employment. *If assessment for emergency removal of a student is occurring at the same time, information with respect to the safety and risk analysis will also be discussed.
 - ii. Unit leadership, as well as FASA/ELR, will provide context on the role of the respondent (and claimant where applicable), as well as information on any prior conduct, other considerations related to the work or educational environment, and any sponsor funding.
 - iii. The group will consider options for potential supportive measures or other interim employment actions, including the purpose, anticipated effectiveness, reasonable availability, any burden on the parties, and impact to others, as well as the appropriate length or other terms of the

⁴ MSU Health Care Policy ADM-106, *Coordinated Response to Reports of Potential Sexual Misconduct*, may apply.

actions. If it is determined that an action will be taken, it will be identified as a supportive measure or other interim employment action.

- c. For supportive measures, ISR/SIT will document the supportive measure decision and rationale consistent with the definition of supportive measure. Unless otherwise specified by ISR, FASA and/or ELR, implementation of supportive measures that affect employment and interim employment actions are the responsibility of the administrative unit leadership. Unit leadership must copy FASA/ELR/ISR on communications or otherwise provide FASA/ELR/ISR with documentation of the effective implementation of the supportive measure or interim employment action.
- d. If the allegations relate to a Clery Act crime, FASA/ELR will notify the Clery Coordinator immediately, but no later than 3 business days of any employment actions taken.
- e. ISR will consult with FASA/ELR and unit leadership before issuing a supportive measure that affects employment (e.g. a No Contact Directive) regardless of when the supportive measure is requested or being considered.
- f. Information about 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.
- g. ISR will review its notification group at each phase of the process (intake, investigation, resolution, appeal) to ensure that the appropriate HR and administrative unit leadership are copied.

VI. STATUS UPDATES AND INFORMATION SHARING

1. ISR will provide regular status updates to FASA and/or ELR and to administrative unit leadership.
 - a. ISR will provide FASA and/or ELR and administrative unit leadership bi-weekly status updates about its open cases that have not been closed.
 - b. ISR will send copies of Formal Complaints and Notices of Investigation to FASA and/or ELR and administrative unit leadership.
 - c. FASA and/or ELR and administrative unit leadership may contact ISR to request updates as needed.
2. ISR will continue to provide FASA and/or ELR and administrative leadership updates on information collected during the investigation or resolution process to support continued efforts to provide an equitable, safe work environment, to address emerging concerns, and to ensure FASA and/or ELR may continuously evaluate the status of interim employment actions. This will include information about conduct admitted to by the respondent during the investigation.
3. FASA and/or ELR and administrative unit leadership will promptly share information with ISR 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).

4. Individuals receiving status updates, including FASA, ELR, OHS, and unit leadership, 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. Party Advisors assigned by OCR should also not be support persons in the investigation or resolution process.
5. ISR will notify FASA and/or ELR 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.
6. If during the initial assessment and/or formal grievance process, ISR identifies recommendations relating to unit policies, procedures, protocols, training, education, or other personnel matters, ISR will provide such information to administrative unit leadership and FASA and/or ELR in the form of a memo. It is highly encouraged that ISR reach out to FASA and/or ELR to discuss these recommendations ahead of time. FASA and/or ELR 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.

VII. COORDINATION OF EMPLOYMENT ACTIONS AND REMEDIES FOLLOWING CONCLUSION OF THE OCR PROCESS

1. **Notification of Final Determination:** At the conclusion of OCR's process, regardless of whether there is a finding of responsibility or not, ISR will distribute the final determination to the parties, FASA and/or ELR, and Respondent employee's administrative unit leadership.
2. **Discipline/Employment Actions:** After notification of a finding of responsibility, FASA or ELR 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 ELR will promptly inform the RO of timely implementation of discipline or other employment actions from a violation of the RVSMTIX Policy and or gender –related findings under the ADP. (See Section VII.3 below)

If the final determination results in a non-finding, FASA and/or ELR and the administrative unit leadership may meet to discuss follow up and sanctions under other University policies. If the unit takes follow up actions as a result of a non-finding, FASA and/or ELR will communicate these follow up actions to OCR.

3. **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 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. ELR 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.
 - a. 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.
 - b. If discipline is later altered as a result of an employee grieving the discipline (or for any other reason), ELR and/or FASA will immediately inform RO, and RO will notify Claimant of the change in discipline.
4. **Availability of Remedies:** After the conclusion of the appeal period, where remedies are available to claimant(s), the ERO will promptly provide the claimant(s) the contact information for the SIT Team member who will coordinate the remedies. The SIT Team will convene a meeting with FASA/ELR and/or unit leadership and OGC to determine an appropriate range of remedies to consider along with any requests of the claimant(s).

⁵ Notification will occur as soon as reasonably practicable after employee discipline is final.

The SIT Team, along with FASA, ELR, Supervisor or Administrator, coordinates the provision and implementation of remedies to claimants identified as having had equal access to the University's education program or activity limited or denied.

VIII. PERSONNEL FILES

1. 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.
2. Where the investigation and formal grievance process resulted in a finding that an employee violated the ***RVSMTIX Policy*** or ***ADP*** (*gender discrimination and retaliation based on gender claim 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.

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⁶ Originally titled "Protocol for the Coordination of Reported Violations of the RVSM and ADP between OIE, FASA, OER, and Unit Leadership."