

UNIVERSITY OF DETROIT MERCY INTERIM SEXUAL AND GENDER-BASED HARASSMENT POLICY AND RESOLUTION PROCESS

ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL

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INTERIM POLICY PROHIBITING SEXUAL AND GENDER-BASED HARASSMENT

1. POLICY DEFINITIONS

- Advisor: a person chosen by a Party, or appointed by the University, to accompany the Party to meetings related to the grievance process, to advise the party on that process, and to conduct cross-examination

- Final Determination: A conclusion by preponderance of the evidence that the alleged conduct did or did not violate this University Policy.
- Finding: A conclusion by preponderance of the evidence that the conduct did or did not occur as in a finding of fact.
- Formal Resolution Process: the methods of formal resolution designated by the University to address sexual or gender-based harassment. This includes conduct described in the Title IX Regulations, 34 CFR 106.45, as consisting of any of the following five types of misconduct: sexual harassment that meets the standard of severe, pervasive, and objectively offensive; sexual assault; stalking; dating violence; and domestic violence. The University employs a separate process to address other types of sex or gender-based discrimination not listed above that include but are not limited to the following examples: sexual harassment that is either severe or pervasive; sexual exploitation; sex-based hazing, and retaliation as well as other forms of sexual violence or sexual misconduct that are not governed by 34 CFR Part 106.30. This separate process is conducted by the Dean of Students or designee at the McNichols campus; by the Associate Dean of Students or designee at the Riverfront campus; by the Associate Dean of Students or designee at the Corktown campus; and by the Associate Vice President of Human Resources or designee for allegations of sexual or gender-based harassment made against employee respondents.
- Hearing officer and decision-maker: individual with decision-making and sanctioning authority within the University's Grievance Resolution process.
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- Sanction: a consequence imposed by the University on a Respondent who is found to have violated this policy, or imposed on a Complainant found to have violated this policy based on a counterclaim made in good-faith response

campus, with the Equal Employment Opportunity Commission, or other human/civil rights agencies.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the University community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the University community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the University's non-discrimination statement.

When brought to the attention of the University, any such discrimination will be promptly and fairly addressed and remedied by the University according to the Resolution Process described below.

The University Title IX Coordinator may be contacted at titleix@udmercy.edu or 313.993.1802.

3. Applicable Scope

The core purpose of this policy is the prohibition of all forms of sexual and gender-based harassment which may involve exclusion from, or different treatment in, activities such as admission, athletics, or employment. This includes sexual harassment, sexual assault, stalking, dating violence and/or domestic violence, and retaliation.

3.a.) When an alleged violation of this Policy is reported, the Resolution Process is used to formally resolve any of the following types of alleged misconduct: sexual harassment that is severe, pervasive,

Corktown campus

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Riverfront campus

Jordan Hall, Deputy Title IX Coordinator, Director of Student Affairs, Campus Equity & Inclusion
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Phone (202) 514-3847

Toll-free Phone 1-855-856-1247

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EXTERNAL INQUIRIES - REGIONAL

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2.) Report online using the University Complaint form provided on the <https://www.udmercy.edu/academics/academic-affairs/titleix/> page,

A Formal Complaint is a document filed and signed by the Compliance Coordinator, alleging a sexual or gender-based policy violation. The Title IX Coordinator requests that the

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Although alleged online harassment and misconduct relating to sexual or gender-based harassment is reported as having been made on social media, blogs, or other digital forms of media that cannot be controlled by the University, the University will engage in a variety of means to address and mitigate the effect of such communications. This includes application of the University ITS Acceptable Use & Security Policy linked here: <https://www.udmercy.edu/about/its/policies/files/its-0028.pdf>

15. Policy on Discriminatory Sexual and Gender-based Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom. All policies accompany actual or attempted offenses.

a. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by this Policy. The University does not tolerate discriminatory harassment of any employee, student, visitor, or guest and will act to remedy all forms of harassment when reported whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive.

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- f. that it effectively denies a person equal access to the University's education program or activity.
- 3. Sexual assault is defined as:
 - a. Any attempted or actual sexual act directed against another person without their consent including instances where the party is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes.
 - b. Forcible Sex Offenses are defined as:
 - i. Any sexual act directed against another person,
 - ii. without the consent of the Complainant,
 - iii.

iii. Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence is defined as:

a. violence
b. on the be

clear permission regarding willingness to engage in, and the conditions of, sexual activity. Consent to some sexual contact such as kissing or fondling cannot be presumed to be consent for other sexual activity such as intercourse. The existence of a current or previous intimate relationship is not sufficient to constitute consent.

- Incapacitation: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because that individual lacks conscious

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2. Avoid showering, bathing, washing hands or face, or douching if possible but evidence may still be collected even if this occurs.
3. Try not² to urinate.
4. If oral sex^{7011.F6} idr F6 sv Tw 8.1 (o11.5 (0.7.06 - Tw 8.1)-3 (c)1.w 8.1a)-1.5 (in0 Td())Tj0 Tc 0 Tw 9.448)J687 (s)

e. Sharing Information with the Advisor

The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor, or other individuals if they wish, as doing so may help the parties to readily participate in the resolution process.

The University will provide a consent form that authorizes the University to share information directly with a Party's Advisor. The parties must complete and submit this form to the Title IX Coordinator

f. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. Shared records may not be shared with third parties, disclosed publicly, or used for purposes not consistent with this resolution process.

g. Expectations of an Advisor

The University expects an Advisor to attend meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend if doing so does not cause an unreasonable delay.

1. Prior to commencing Informal Resolution through Mediation, the University will provide the Parties with written notice of the reported misconduct alleged by either Complainant or Respondent.
 2. Informal Resolution through Mediation may not be commenced without voluntary, signed written confirmation provided by the Parties to the Title IX Coordinator, or Deputy Titl-1.5 (o-1.5 (o-1.e)0.8 (s-0.7
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- The identity of the involved parties (if known);
- The precise misconduct being alleged;
- The date and location of the alleged incident(s) (if known);

The Title IX Coordinator, or Deputy Title IX Coordinator, will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the Formal Resolution Process, raise a concern regarding bias or conflict

- Allow each Party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses'
- Document in the investigation report which questions were asked with a rationale for any changes or omissions;
- Endeavor to complete the investigation within 30 business days and provide regular status updates to the Parties every two weeks during the investigation;
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence including appendices referring to or including relevant physical or documentary evidence;
- Prior to the conclusion of the investigation, first provide the Parties the evidence relied upon during the investigation and next provide the Parties a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation including (e)0.8 (v)-1.6 (l)-6 d(e)0.8 (nc)-3.2 (e)0.7 (u)-5.1 (po)-3 (n)-5.5 (w)-0.9 h(ic)2.2 (h)-5 (t)1.6 (h-.5 (e)-4.8 e24.7 rm-3.2 im-2.4 afgr-7.1 alten-2.4 (e24.7 ss dP)-3.1 (y)-1.5 rce24.8 (i)-1.5 (e24.7 wc)1.2 (anP)-3.1 d c42.2 aninfh urpond(t)0.7 ot th-.6 (ee(v)-2.6 (i)-1.5 (d)-0.6 (e)6.-4 (n)-0.6 (c)1.2 (e)-5.7 . Te)-5.8 (h)-076 (e P)-3.1 (a)-2.9 rm ttnte revh--0.6 (e)0.8 (w)-0.9 (t)1.7 (n)-5.1 (e)0.7 ((e)0.7 (v)75 (ide)0.7 (nc)-3.2 (e)0.8 (a)-197 (n)-5 d mo)-4.3 (oent onth--0.6 ((i)-7 (n)-0.6 (v)-2.6 (es)-359 (t)0.7 (i)-1.5 (ga)-2.9 (t)-4.8 (i)-1.5 (o)-4.1 (n)-0.6 ((r)-1.7 ((p)-0.6 (o)-4.

option to decline to serve as Hearing Officer if they believe that it may not be possible to make an objective determination of responsibility.

31. Appeals

Any Party may file a request for appeal in writing and email it to the Title IX Coordinator within seven (7) business days of delivery of the Notice of Outcome. The Title IX Coordinator, or Deputy Title IX Coordinator, will forward Request for Appeal to the Appeal Chair for the University campus where the student or employee is enrolled, or principally work, if the request meets the grounds for appeal.

a. Grounds for Appeal

Appeals are limited to the following grounds:

A. Procedural irregularity that affected the outcome of the matter;

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- Permanent alteration of housing assignments;
- Permanent alteration of housing assignments;

C.

If government laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this policy and its procedures will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of Federal and State of Michigan laws which frame such policies and codes generally.

This policy and its procedures are effective August 14, 2020.

Updated October 13, 2020.