

University of Michigan
Annual Report Regarding Institutional Response to
Reports of Sexual Harassment
by Faculty, Staff and Third Parties

July 1, 2019 - June 30, 2020



Office for Institutional Equity
January 28, 2021

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To Members of the University of Michigan Community:

As an important part of its commitment to transparency, the Office for Institutional Equity (“OIE”) issues an annual report regarding sexual misconduct reports concerning faculty, staff, and third parties and how those reports were addressed. This report covers such matters addressed from July 1, 2019 through June 30, 2020. OIE also issues an annual report regarding sexual and gender-based misconduct matters concerning students.

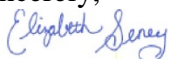
On August 14, 2020, the University implemented a single umbrella policy, the [Interim Policy on Sexual and Gender-Based Misconduct](#), regarding sexual and gender-based misconduct involving students, faculty, staff, and third parties. Accordingly, in future years OIE will likely issue one report to cover sexual and gender-based misconduct matters for students, faculty, staff, and third parties.

During the time period covered in this report, however, most sexual misconduct reports against faculty, staff, and third parties were addressed under the University’s *Sexual Harassment* policy (SPG 201.89) in place at the time and related procedures. The *Sexual Harassment* policy addressed all forms of sexual harassment, including sexual assault and stalking based on romantic or sexual interest. Reports of behavior by faculty, staff and third parties that could constitute intimate partner violence or stalking that is not based on romantic or sexual interest are addressed by the appropriate Human Resources office under the University’s [Violence in the University Community](#) policy (SPG 601.18). This report includes concerns that have been addressed under either policy.

We share this information in order to be transparent, to acknowledge that these behaviors occur within our community, and to show how the University responds to sexual misconduct. These behaviors have no place at Michigan, and we encourage every member of our community who has concerns about sexual misconduct to reach out, whether that means contacting a [confidential resource](#) for support and other services, [OIE](#) for a response from the University, the [UMPD Special Victims Unit](#) for a response from the criminal justice system, or a combination of these options.

We want to hear from you and to answer your questions. We want to ensure that you are in a respectful, safe, and inclusive working and learning environment.

Sincerely,



Elizabeth Seney

Senior Associate Director and Title IX Coordinator

Contents

Executive Summary	1
Introduction	2
What Conduct is Prohibited?.....	2
a. Sexual Harassment.....	2
b. Retaliation.....	4
c. Intimate Partner Violence and Some Forms of Stalking	4
The Number of Reports.....	5
Modes of Addressing Reports.....	5
a. Matters Addressed Under CBAs.....	6
b. Investigations	6
c. Reviews.....	6
d. Consultations.....	7
e. Resources and Interim Measures	7
Findings.....	8
a. OIE Investigations	8
b. HR Matters.....	9
Corrective Action	10
a. OIE Investigations	10
b. HR Matters.....	10
Grievance of Corrective Action	11
a. Grievance of Corrective Action Arising from OIE Investigations	11
b. Grievance of Corrective Action Arising from HR Matters	11
Education and Prevention Measures	11
Conclusion.....	12

Executive Summary

This is the third report issued by the Office for Institutional Equity (“OIE”) that details action taken in response to issues reported under the University’s *Sexual Harassment* (SPG 201.89) and *Violence in the University Community* (SPG 601.18) policies. These policies addressed conduct by faculty and staff, as well as behavior by third parties while they are on campus or participating in a University program or activity.

This report speaks to matters addressed between July 1, 2019 and June 30, 2020. During this period, the University received 177 sexual misconduct reports involving faculty, staff and third parties.¹ Of the 177 matters:

- 21 matters were investigated by OIE. Of these 21 investigations, 18 were completed at the time this report was issued:²
 - five findings that the *Sexual Harassment* policy was violated;³
 - four findings that inappropriate behavior occurred, but the behavior was not sufficiently severe, persistent or pervasive as to create a hostile environment
 - eight findings that there was insufficient evidence to find a Policy violation
 - one investigation was closed without a finding after the Respondent resigned and was referred to Human Resources for further consideration
- 13 matters were addressed by Human Resources under relevant collective bargaining agreements
- 9 matters resulted in a “review” by OIE. A review is undertaken when a report lacks sufficient information to allow for an investigation, such as the complainant’s and respondent’s identities.
- 134 matters were “consultations.” Consultations are questions or reports that can be addressed appropriately by OIE without conducting a review or investigation.

In matters in which a policy violation or other inappropriate behavior is found, corrective action is taken by the appropriate unit. This year, such disciplinary action included termination, ineligibility for re-hire at the University, temporary disciplinary layoff, ineligibility for merit increase and other restrictions, written or documented verbal warnings, and educational measures.

¹ During Fiscal Year 2020, the University retained outside investigators to conduct investigations where the University had received, in each, multiple allegations involving one individual. Those matters include former University Provost Martin Philbert and the now deceased and former University employee Dr. Robert Anderson and the outside investigators were from the Wilmer Hale law firm. In both instances, OIE received some reports but allegations were directed to the external investigators and accordingly, were not all reported to OIE. As a result, this report does not reflect the total number of allegations that were reported to Wilmer Hale during Fiscal year 2020 involving either former University Provost Martin Philbert or Dr. Robert Anderson. The Wilmer Hale report involving Dr. Philbert was made publicly available and the Wilmer Hale report involving Dr. Anderson will be made publicly available upon completion of the investigation.

² One also involved an allegation under the *Prohibitions Regarding Sexual, Romantic, Amorous, and/or Dating Relationships Between Teachers and Learners Policy* (SPG 601.22).

³ One of these also resulted in a finding of a violation of the *Faculty-Student Relationships Policy*.

Introduction

The University had, during Fiscal Year 2020, two policies to address reports of sexual misconduct by faculty, staff and third parties. The *Sexual Harassment* policy (SPG 201.89) is used to address reports of unwelcome conduct of a sexual nature, including sexual harassment, sexual assault and stalking. The *Violence in the University Community* policy (SPG 601.18) is used to address reports of intimate partner violence and stalking that is not based on romantic or sexual interest. These prohibited behaviors are collectively referred to as “sexual misconduct” in this report.

During this time, OIE was responsible for addressing matters arising under the *Sexual Harassment* policy, while the relevant Human Resources office (“HR”) is responsible for addressing matters arising under the *Violence in the University Community* policy. Where the reported conduct implicates both policies, OIE and HR work collaboratively to resolve the concerns. OIE produces a separate [annual report addressing reports of sexual misconduct by students](#).

This report provides data regarding concerns that were reported under both policies from July 1, 2019 to June 30, 2020.⁴ Our purpose in providing this data is to provide useful information in an accessible format; however, we welcome your feedback in order to make this document more helpful, easier to understand, or otherwise improve its content. Please provide any feedback to the Title IX Coordinator in the Office for Institutional Equity:

Elizabeth Seney
Sr. Associate Director & Title IX Coordinator
Office for Institutional Equity
2072 Administrative Services Building
1009 Greene Street, Ann Arbor, MI 48109-1432
(734) 763-0235
institutional.equity@umich.edu

Comments are appreciated and will be considered as we develop future reports.

What Conduct is Prohibited?

a. Sexual Harassment

For current definitions of Prohibited Conduct, please see the [Interim Policy on Sexual and Gender-Based Misconduct](#), Section XI (pages 22-33). The policy in place at the time defined sexual harassment as:

⁴ We note that the data contained in this document refers to incidents brought to OIE or HR’s attention between July 1, 2019 and June 30, 2020, regardless of when the incidents are alleged to have occurred.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute harassment when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, living environment, or participation in a University activity;
- (2) submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University activity; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational performance or creating an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living environment, or participation in a University activity.

See former SPG 201.89.

The policy also provided examples of the types of behavior that fall under the policy:

Some examples of conduct that may constitute sexual harassment include, but are not limited to:

Unwanted sexual statements – sexual or “dirty” jokes, comments on physical attributes, spreading rumors about or rating others as to sexual activity or performance, talking about one's sexual activity in front of others, and displaying or distributing sexually explicit drawings, pictures and/or written material. Unwanted sexual statements can be made in person, in writing, electronically (email, instant messaging, blogs, web pages, etc.), and otherwise.

Unwanted personal attention – letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction, pressure for dates where a sexual/romantic intent appears evident but remains unwanted, and stalking.

Unwanted physical or sexual advances – touching, hugging, kissing, fondling, touching oneself sexually for others to view, sexual assault, intercourse, or other sexual activity.

See former SPG 201.89.

As noted in the examples, the *Sexual Harassment* policy defined sexual harassment to include behaviors such as stalking and sexual assault, although these terms are not separately defined. For this reason, data concerning all forms of unwelcome conduct of a

sexual nature that were addressed under SPG 201.89 are referred to as “sexual harassment” in this report.

This report contains data on all behavior that falls within this definition and was reported to OIE. Under some collective bargaining agreements between the University and a union, concerns falling under the *Sexual Harassment* policy were addressed under the terms set forth in the collective bargaining agreement (“CBA”). That process was often separate from OIE’s investigation process and was generally addressed through HR. Sexual misconduct matters that were addressed by HR under CBAs also involve University follow-up and, where appropriate, disciplinary action, and are noted in this report as well.

b. Retaliation

The *Sexual Harassment* Policy also prohibited retaliation, as follows:

Retaliation. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an informal resolution or formal investigation of a sexual harassment allegation will not be subjected to retaliation. The University also will take appropriate steps to assure that a person against whom such an allegation is made is treated fairly. The University will also take appropriate follow-up measures to assure the goals of this policy are met. Persons who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure for lodging a sexual harassment complaint.

See former SPG 201.89.

c. Intimate Partner Violence and Some Forms of Stalking

The [*Violence in the University Community*](#) policy provides the following definition of prohibited behavior:

Acts of violence and aggression include verbal or physical actions that create fear or apprehension of bodily harm or threaten the safety of a supervisor, co-worker, faculty member, student, patient, general public or the University community at large. Examples of such behavior include on or off duty or off premises acts that adversely affect the University:

1. Any act which is physically assaulting
2. Behavior or actions that would be interpreted by a reasonable person as carrying a potential for violence and/or acts of aggression
3. Any act that threatens harm to another person or damage to property
4. Domestic violence

5. Stalking (including electronic stalking)

See SPG 601.18.

This report contains data on intimate partner violence that was reported to the University and addressed by HR under this policy.

The Number of Reports

The University encourages every member of its campus community to report sexual misconduct. This year, the University received 177 reports of possible sexual misconduct by faculty and staff (or by third parties, not reported under the policy related to student sexual and gender-based misconduct).⁵ This is consistent with the previous year, when OIE received 178 reports

A report can be made by a person who has experienced, witnessed, heard about or otherwise has knowledge of possible sexual misconduct. We encourage reporting because it allows the University to provide for the safety and well-being of both individual community members and the overall campus community. It also allows us to provide resources and support for those impacted by the reported misconduct. There are a variety of ways to report concerns about sexual misconduct, including [online](#) and directly to the Title IX Coordinator, whose contact information is provided on page 2, above.

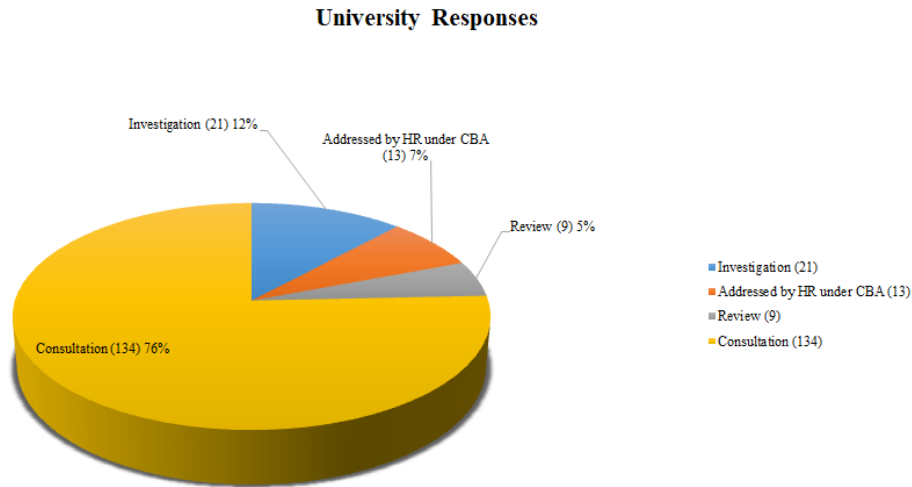
The 177 reports received this year involved 169 allegations of sexual harassment, six reports of stalking, six reports of intimate partner violence, and two reports of retaliation. Several matters involved multiple allegations, so the total number of allegations is greater than the number of matters reported.

Modes of Addressing Reports

The University responded to all of the 177 reports it received. Wherever possible and appropriate, individuals who reported concerns were informed of available resources and options.

⁵ It is important to note that this report reflects the total number of sexual misconduct concerns that were reported during the relevant time period, and is likely to differ from the numbers of reported incidents of rape, fondling, stalking, and dating/domestic violence recorded in the University's [Annual Security Report and Annual Fire Safety Report](#). As required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), the Annual Security Report contains the numbers of certain types of reported crimes, as defined by the FBI Uniform Crime Reporting (UCR) Program, which were reported to have occurred in particular geographic locations during a calendar year. Many of the incidents referenced in this report, while falling under applicable University policies, do not fall within the Clery Act statistical definitions, resulting in a disparity between the data reported in this report and the Annual Security Report. Further, the numbers will differ because the data contained in the reports respectively encompass different time periods (i.e., this report encompasses the 2020 fiscal year while this year's Annual Security Report reflects the 2019 calendar year).

The following chart illustrates the manner in which the University responded to the 177 reports received during the 2020 fiscal year:



a. Matters Addressed Under CBAs

When sexual misconduct concerns were brought against union employees during fiscal year 2020, the terms of that union’s collective bargaining agreement with the University determined whether the matter was addressed using the procedures outlined in the CBA or whether the matter was referred to OIE. Whether addressed under a CBA process or the OIE process, the University responded to and addressed reported misconduct and took corrective action as appropriate.

This year, 13 sexual misconduct reports were addressed by HR under CBAs.

b. Investigations

Twenty-one of the reports to OIE involving University faculty or staff resulted in an investigation. OIE conducts an investigation under the *Sexual Harassment* policy when an identified faculty member, staff member or third party is reported to have engaged in unwelcome conduct of a sexual nature that potentially violates the policy.

c. Reviews

Of the reports received by OIE this year, nine resulted in a review. A review is undertaken when OIE receives a report that does not contain sufficient information to allow an investigation to ensue. For example, an anonymous report may be received in which neither the complainant nor respondent is identified. Or the respondent may be identified, but the

report states that the individual is engaging in sexual harassment without additional detail such as when, in what way or toward whom.

When OIE receives reports of this nature, it tries to develop more information about the allegation(s) and then responds appropriately depending on the additional information obtained. For example, if OIE is able to do so and the behavior at issue, if supported by the evidence, falls under the *Sexual Harassment* policy, the matter proceeds to an investigation. If OIE is unable to gather sufficient information, it may close the matter pending additional information. If OIE has been able to identify the respondent, but cannot undertake an investigation, OIE is transparent and generally informs the respondent that the allegation has been received and ensures the respondent is aware of the University's *Sexual Harassment* policy and related behavioral expectations. In some instances, OIE is able to gather detailed information about the report, but the behavior does not fall under the *Sexual Harassment* policy. In those instances, OIE will refer the matter to the appropriate institutional resource (e.g., Human Resources, UMPD, etc.) for follow up.

d. Consultations

Of the matters reported, 134 were “consultations” handled by OIE. Consultations are questions or reports that can be addressed appropriately without a review or investigation. For example, a supervisor may contact OIE about a concern that a long-term employee told a sexual joke in the workplace. If the employee does not have a history of such behavior and no other concerns have been raised, this matter can usually be resolved through action taken by the supervisor and HR, with related education by OIE as appropriate. In this example, the matter would be documented by OIE in the event there is a recurrence.

e. Resources and Interim Measures

One of the first steps the University takes when a sexual misconduct concern is raised is to offer the complainant and respondent resources and support, including confidential resources such as the [Sexual Assault Prevention and Awareness Center](#) (SAPAC), the [Faculty and Staff Counseling and Consultation Office](#) (FASCCO), the [Michigan Medicine Office of Counseling and Workplace Resilience](#) (OCWR), the [Faculty Ombuds](#), and the [Staff Ombuds](#). The [Division of Public Safety & Security](#) (“DPSS”) is also informed of sexual misconduct reports that are criminal in nature.

Another aspect of the support provided by the University is to offer supportive measures. Under current Policy, supportive interim measures may be implemented as appropriate to restore or preserve access to the University's programs or activities, to support the safety and wellbeing of the party's and the campus community, and/or to deter Prohibited

Conduct. Supportive measures are not be punitive or disciplinary, and may not unreasonably burden any party. Supportive measures can include a variety of actions taken by numerous offices on campus.

When supportive measures are undertaken, no assumptions are made as to whether the respondent engaged in sexual misconduct; rather, the assessment of whether and what interim measures are appropriate focuses on safety and preventing the possibility of harm as the investigation is pending. Supportive measures are determined on a case-by-case basis, depending upon the needs of the parties involved and the nature of the Prohibited Conduct concerns.

This year, the University implemented a variety of interim measure, such as separating the parties' work locations, separating the parties' work schedules, and restricting contact between the parties.

We note that there are likely instances where an individual may have sought assistance from a confidential resource before reporting their concerns to OIE, or an individual may never report their concerns to OIE but only seek confidential assistance, in which case OIE may not be directly involved or aware of the measures implemented. SAPAC and/or other offices may assist the individual with a variety of services such as seeking a personal protection order, assistance and support in addressing the matter through the criminal justice system, etc. While efforts have been made to accurately account for interim measures in this report, we recognize that additional measures or support have likely been provided that are not accounted for here.

Findings

a. OIE Investigations

Under the *Sexual Harassment* policy, OIE investigations may result in one of the following findings:

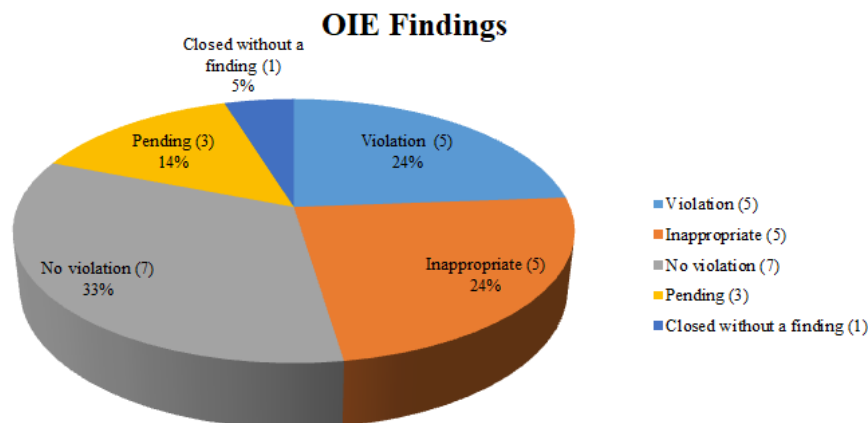
- A policy violation – Unwelcome conduct of a sexual nature occurred and was sufficiently severe, persistent or pervasive as to create a hostile environment
- A finding of inappropriate behavior – Unwelcome conduct of a sexual nature occurred and was inappropriate, but not sufficiently severe, persistent or pervasive as to have created a hostile environment
- No policy violation – There is insufficient evidence to conclude the behavior occurred, or the behavior either was not sexual in nature or not otherwise inappropriate when looking at the totality of the circumstances

In making a finding, OIE uses the “preponderance of the evidence” standard set forth in the *Sexual Harassment* policy. Under this standard, individuals are presumed not to have

engaged in the alleged conduct unless a preponderance of the evidence supports a finding that the conduct occurred. The preponderance of the evidence standard requires that the evidence supporting each finding be more convincing than the evidence obtained in opposition to it.

Of the 21 investigations initiated by OIE this year, 18 were completed at the time this report was issued. OIE made the following findings:

- In five investigations, the Respondent was found to have violated the *Sexual Harassment* policy⁶
- In five investigations, the Respondent was not found to have violated the *Sexual Harassment* policy, but was found to have engaged in inappropriate behavior
- In seven investigations, the Respondent was not found to have violated the *Sexual Harassment* policy or otherwise engaged in inappropriate behavior.



In another one of the 18 cases, the Respondent’s employment ended and OIE closed its investigation, sharing the evidence with HR. As mentioned above, three of the 21 investigations undertaken this year were not yet completed at the time this report was issued.

b. HR Matters

HR handled thirteen sexual misconduct reports arising under CBAs, eleven involving sexual harassment and one under the *Violence in the University Community* policy. In 11 matters, involving twelve Respondents, HR concluded that policy violation or other inappropriate behavior occurred, and corrective action was imposed consistent with the terms of the applicable CBA. In one matter, no policy violation or other inappropriate behavior was found, and in one other matter, the Respondent was terminated prior to the conclusion of the investigation due to unrelated misconduct.

⁶ In one of these, the Respondent was also found to have violated the *Faculty-Student Relationships* policy.

Corrective Action

When an individual is found to have violated the *Sexual Harassment or Violence in the Community* policy or to have otherwise engaged in inappropriate behavior, the University takes corrective action intended to address the behavior at issue, remedy any harm the behavior may have caused, and ensure that the behavior does not recur. Corrective action is tailored to the specific circumstances of each case.

a. OIE Investigations

When OIE completes its investigation, both the complainant and respondent, as well as the relevant administrators receive a copy of the investigation report. If OIE determines either that the policy was violated or that inappropriate behavior occurred, the relevant administrator takes appropriate corrective action. This action may be influenced by other factors. For instance, a history of previous disciplinary action against the respondent may be relevant, particularly if the previous discipline was also for sexual misconduct.

In the nine OIE investigations this year that resulted in a finding of a violation or inappropriate behavior, the following corrective action was taken:

- In three instances, Respondents were terminated, and were designated as ineligible for re-hire at the University.
- In one instance, a written warning was issued, and the Respondent was designated as ineligible for a merit increase and was subject to other restrictions, for prescribed periods
- In one instance, a Respondent received a temporary disciplinary layoff
- In two instances, educational measures were required

In addition, in one instance where the OIE investigation found a policy violation or inappropriate behavior, the Respondent resigned before the investigation was completed and the Respondent was designated as ineligible for re-hire at the University.

b. HR Matters

In the instances in which sexual misconduct reports were addressed by HR under CBAs, the following corrective action was taken:

- In two instances, the Respondents were terminated
- In one instance, a documented verbal warning was issued and educational measures were required
- In five instances, educational measures were required
- In two instances, documented verbal warnings were issued

- In one instance, a written warning was issued
- In one instance, educational measures were required and the Respondent was reassigned

Grievance of Corrective Action

In cases decided under the *Sexual Harassment and Violence in the University Community* policies, the finding may not be appealed, but the faculty or staff member may grieve any corrective action imposed using the appropriate grievance procedure.

a. Grievance of Corrective Action Arising from OIE Investigations

As noted above, corrective action has thus far been imposed in nine matters investigated by OIE this year. At the time of this report no respondents have grieved the corrective action arising from OIE investigations.

b. Grievance of Corrective Action Arising from HR Matters

As noted above, corrective action was imposed in eleven sexual misconduct matters (involving twelve Respondents) addressed by HR under a CBA this year. None of the Respondents grieved the corrective action imposed through the grievance process set forth in the applicable CBA.

Education and Prevention Measures

In addition to the University's commitment to respond promptly and appropriately to reports of sexual misconduct, the University continues to focus on educational measures intended to prevent sexual misconduct and ensure that those who are experiencing it have information about resources and reporting options.

Extensive training efforts continue in order to educate the campus community about adjustments to the Policy, as well as reporting options and the various reporting responsibilities of University faculty and staff. All University and Michigan Medicine faculty and staff were required to complete an online training module related to sexual and gender-based discrimination and harassment, *Cultivating a Culture of Respect*, by December 31, 2019. In addition, the University continued to strongly encourage all faculty and staff members to complete the *Responsibilities at Michigan: Sexual Assault, Intimate Partner Violence, Stalking and Sexual and Gender-Based Harassment* training.⁷ This online program focuses on identifying and understanding reporting obligations, as well as responding appropriately to student disclosures of misconduct. Faculty and staff members are also strongly encouraged to complete the *Haven Training for Faculty and Staff*, a robust

⁷ The module was updated in November 2020 as a result of the *Interim Policy on Sexual and Gender-Based Misconduct*.

online program addressing sexual assault, sexual harassment, stalking, and intimate partner violence.

In addition to online education, the University also offers a variety of in-person educational opportunities for faculty and staff, including sessions by programs within the [Center for Research on Learning and Teaching](#), [Organizational Learning](#), SAPAC, and OIE.

Conclusion

OIE wants to provide information that is helpful to the University of Michigan community. For more information, including definitions, resources, and a more detailed overview of the processes used to address sexual misconduct concerns involving faculty, staff and third parties, please visit the University's [Sexual Misconduct Reporting & Resources](#) website.

Finally, as noted above, we welcome any feedback on how we might make this document more helpful, easier to understand, or otherwise improve its content. Please provide any feedback to the Office for Institutional Equity:

Office for Institutional Equity
2072 Administrative Services Building
1009 Greene Street, Ann Arbor, MI 48109-1432
(734) 763-0235
institutional.equity@umich.edu