

**University of Michigan  
Annual Report Regarding Prohibited Conduct  
July 2016 - June 2017**



**Office for Institutional Equity  
January 24, 2018**



January 24, 2018

To Members of the University of Michigan Community:

This is the fourth annual report regarding student sexual misconduct issued by the Office for Institutional Equity (OIE). This report covers issues that have been addressed by the University from July 1, 2016 through June 30, 2017.

Although this is the fourth report OIE has issued, this is the first report issued since the University modified its policy on July 1, 2016. Specifically, the University adopted [The University of Michigan Policy & Procedures on Student Sexual & Gender-Based Misconduct & Other Forms of Interpersonal Violence](#) (Policy), which replaced the [University of Michigan Policy on Sexual Misconduct by Students](#). Due to the change in policy, the data in this report does not necessarily track with data in prior reports since the policies contain some new prohibited misconduct, including intimate partner violence, gender-based harassment, and “violation of interim measures” (e.g., violating no contact directives or other measures that are implemented during an OIE investigation).

As with OIE’s previous reports, this report and accompanying data are intended to provide insight into the number of issues addressed by the University, and the process by which concerns are handled. We continue to be mindful of our responsibility to balance the educational benefit of sharing as much about these matters as is appropriate, while at the same time respecting the privacy of those involved.

Thank you for reading this report and for your attention to this important issue.

Sincerely,

Pamela Heatlie  
Associate Vice Provost for Academic and Faculty Affairs  
and Senior Director, Title IX Coordinator

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## Executive Summary

Pursuant to the University of Michigan Policy and Procedures on Student Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence (“Policy”), the Office for Institutional Equity (“OIE”) produces an annual report detailing actions taken by the University to address issues reported under the Policy, as well as describing the University’s efforts to engage the community in education and prevention initiatives. OIE’s fourth annual report reflects actions taken under the Policy in response to reports received by OIE between July 1, 2016 and June 30, 2017, the first year the current Policy has been in place.

The total number of reports received increased nearly 40% this year, from 157 the previous year to 218. We believe that this increase is the result of enhanced awareness on campus of these issues and how to report concerns, as well as the addition of new types of allegations now covered under the Policy that were previously addressed under different University policies and therefore not previously included in this report. New types of allegations now covered under the Policy include intimate partner violence, gender-based harassment, and violation of interim measures. Collectively, these new types of allegations account for 15% of the reports this year. Reports of stalking increased from 14 last year to 35 this year. Reports of sexual assault and sexual harassment increased by about 15% (from 80 to 92) and 25% (from 49 to 62), respectively, while reports of retaliation decreased from one report last year to none this year. Reports of “other” types of allegations also decreased by about 21% (from 19 to 15), likely due to the expanded scope of the Policy, which now covers some behaviors that were previously counted as “other.” Reports that are counted as “other” are matters that are identified to OIE as possibly falling under the Policy, but ultimately do not fit within the scope of conduct prohibited by the Policy.

OIE continues to investigate reports when appropriate and requested by a Claimant. Cases in which a Claimant chooses not to pursue an investigation are considered by a review panel before determining whether additional action will be taken. This year, the number of cases that were considered by the review panel increased from 88 to 111, though the proportion of reports reviewed by the panel compared to total reports decreased, from about 56% last year to about 51% this year. At the same time, the number of cases in which an investigation was both requested and appropriate (e.g., the reported behavior falls under the Policy, etc.) increased in both number and proportion. In each of the 218 reports made to OIE, the individuals, if known, are provided extensive information about the various options and resources available to them, in order to allow them to make informed choices.

OIE conducted 28 investigations last year. Within those 28 investigations, there were eight cases in which students were found to have violated the Policy. The Office of Student Conflict Resolution facilitated the convening of the Sanctioning Board (described further below) and sanctions were issued in every such case. Under the current Policy, a sanctioning board now determines the appropriate sanctions when a violation is found. In all instances, students found to

have violated the Policy were subject to a continuing requirement of no contact with the Claimant. In all cases where a student was permitted to return to the University, the student was required to complete educational measures designed to address the behavior and prevent recurrence.

The University continues to engage in extensive prevention and education efforts directed toward students, faculty, and staff related to these issues. Additional endeavors this year included extensive efforts to educate the campus community regarding changes to the Policy, reporting options, staff and faculty response and reporting responsibilities.

## **Introduction**

The University's [\*Policy and Procedures on Student Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence\*](#) provides information regarding the process the University will follow once it receives a report of prohibited behavior, and the University's prevention and education efforts related to sexual assault, sexual and gender-based harassment stalking, intimate partner violence, retaliation, and violation of interim measures by students. To ensure that the campus community has timely and relevant information about the University's efforts and actions regarding Prohibited Conduct, the Policy provides that the Title IX Coordinator will issue an annual report about the University's response to reports of Prohibited Conduct by students.

This is the fourth annual report under the Policy, and it provides data covering the period from July 1, 2016 to June 30, 2017.<sup>1</sup> As with our previous annual reports, which can be found [here](#), we have endeavored to provide useful information in an accessible format; however, we continue to 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:

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

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<sup>1</sup> We note that the data contained in this document refer to incidents made known to the Office for Institutional Equity between July 1, 2016 and June 30, 2017, regardless of when the incidents are alleged to have occurred. We further note that the final data set contained in this report was compiled on August 18, 2017. Therefore, the documented status of each case is as of August 18, 2017. For information regarding investigations that were included in the third annual report, covering the period between July 1, 2015 and June 30, 2016, please see Appendix B.

## What Conduct is Prohibited?

In past years, the Policy prohibited sexual misconduct, which encompasses a wide variety of behavior, from unwanted sexual comments to sexual assault. This year, the Policy was expanded to also cover intimate partner violence, stalking, and gender-based harassment. We refer to these collective behaviors as “Prohibited Conduct” in the Policy and within this report. Whether certain behavior constitutes Prohibited Conduct depends greatly upon the circumstances surrounding the behavior. This report contains data about every concern of Prohibited Conduct reported to OIE during the past year. It is important to note that while some of these behaviors are newly covered under this Policy, that does not mean they are being addressed by the University for the first time; rather, such behaviors were addressed in other ways previously.

## The Number of Reports of Prohibited Conduct

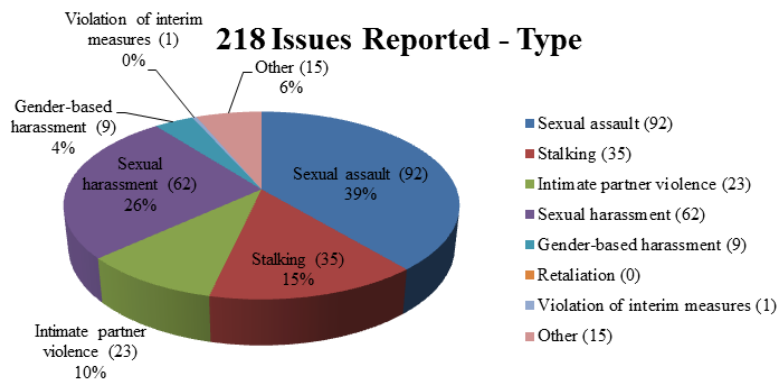
The University encourages every member of its campus community to report Prohibited Conduct. This year, OIE received 218 reports of Prohibited Conduct.<sup>2</sup> A report can be made by a person who has experienced, witnessed, heard about or has knowledge of possible Prohibited Conduct. We encourage 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 a concern about Prohibited Conduct, including directly to the Title IX Coordinator or [on-line via the University’s public reporting mechanism](#).

During the past reporting year, from July 1, 2016 through June 30, 2017, 218 matters were reported to OIE via these various mechanisms, compared to 157 incidents reported during the previous year.<sup>3</sup> Again, we believe that this increase is the result of enhanced awareness on campus of these issues and how to report concerns, as well as the addition of new types of allegations that are now covered under the Policy. The majority of the reports OIE received this year involved sexual assault and/or sexual harassment, followed by stalking and intimate partner violence.

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<sup>2</sup> Since a single report of Prohibited Conduct may raise concerns about multiple potential violations of the Policy (e.g., a report of sexual assault accompanied by stalking behavior), the 218 reports involved 237 potential policy violations.

<sup>3</sup> It is important to note that this report reflects the total number of Prohibited Conduct concerns that were reported to OIE during the relevant time period, and is likely to differ from the numbers of reported incidents of rape, forcible fondling, and stalking 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. Accordingly, many of the reported incidents referenced in this report do not fall within the Clery Act statistical definitions. Further, the numbers will differ because the data contained in the reports respectively encompass different time periods (i.e., this report encompasses the 2017 fiscal year while this year’s Annual Security Report reflects the 2016 calendar year).

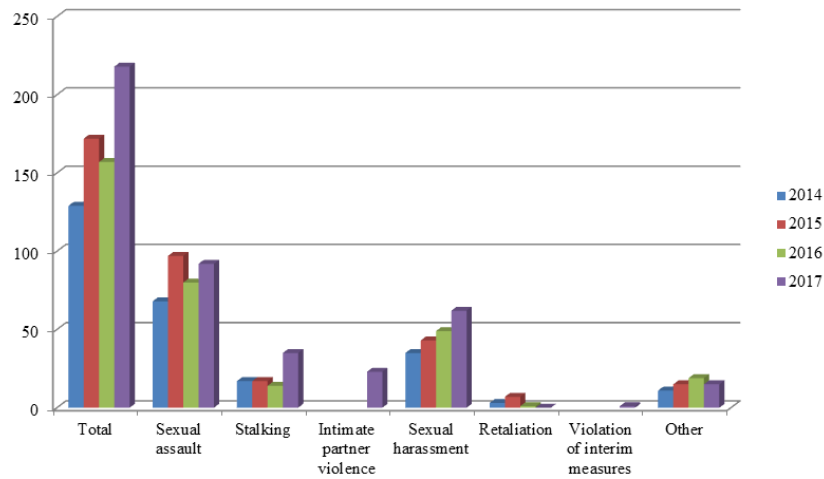


Compared to the reports received last year, incidents reported this year include an increase in the number of reported sexual assault, stalking, and sexual harassment incidents, while the number of reported retaliation and other incidents decreased.<sup>4</sup> The number of reports of stalking, in particular, increased the greatest. While we are uncertain precisely why the reports of stalking has risen, it may be due to increased awareness that stalking concerns are addressed under this Policy, since it is now specifically included in the Policy as a form of Prohibited Conduct, whereas in the past it has been included as an example of sexual harassment.

As noted above, intimate partner violence, gender-based harassment, and violation of interim measures are also now included as Prohibited Conduct under this Policy and in this report. In the past, reports of conduct that fall within the Policy definitions of gender-based harassment or intimate partner violence were addressed under the *Statement of Student Rights and Responsibilities*, and a report involving an alleged violation of interim measures would not have constituted its own report of Prohibited Conduct. In previous years, if such concerns were reported to OIE as possible Prohibited Conduct, they would have been referred to the appropriate office or process and included in the annual report as “other.”

<sup>4</sup> An allegation is characterized as “other” when the conduct is reported as involving Prohibited Conduct, but the nature of the reported conduct does not actually constitute misconduct that is covered under the Policy.

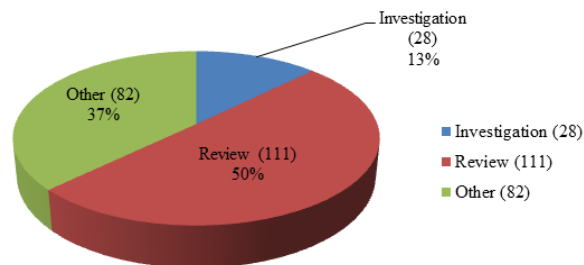
### Annual Comparison of Issues Reported - Type



### How the Reports Were Addressed

OIE responded to each of the 218 reports to determine appropriate next steps. As discussed more fully below, 28 reports were investigated, 111 were brought to the review panel, and 82 were determined not to fall within the scope of the Policy. While these numbers reflect 221 responses, rather than 218 responses, it is noted that one case that was investigated during the 2017 fiscal year had been reported during the previous year and, as such, is not reflected in the number of reports received this year. In that case, the Claimant declined to pursue an investigation at the time their concerns were initially reported, but they ultimately requested an investigation during the 2017 fiscal year.<sup>5</sup> Additionally, as discussed in more detail below, two reports were both considered by the review panel and ultimately investigated. In order to accurately reflect the number of matters considered by the review panel and the number of cases investigated, these two reports are included in both categories.

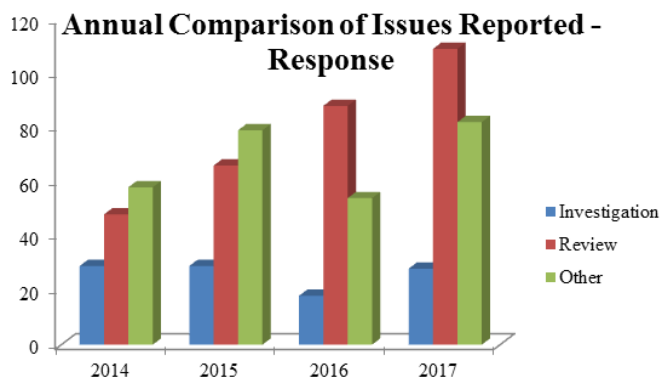
### 218 Issues Reported - Response



<sup>5</sup> As noted above, the chart below includes information about one investigation that resulted from reports received in a previous year, in which the Claimant elected not to participate in an investigation at the time of the report, but requested an investigation during the 2017 fiscal year. In order to provide complete information about the investigations OIE conducted into student Prohibited Conduct matters this year, these investigations are included in the chart below. It is, however, noted that this means that twenty-seven of the twenty-eight investigations were the result of reports received during this fiscal year, meaning 12% of the student Prohibited Conduct reports received by OIE this year resulted in an investigation.



In comparison to the previous year, the total number of issues reported increased significantly. This resulted in an increase in each possible response category: investigation, consideration by the review panel, and other resolution based on the scope of the Policy.



Although the specific nature of the actions taken by the University varies from case-to-case depending upon multiple factors, the University’s process for responding to a report of Prohibited Conduct may include: (1) the provision of confidential support and other resources; (2) interim measures, including but not limited to separation of the Claimant’s and Respondent’s academic and/or living situations; (3) consideration by a review panel; (4) an informal resolution; (5) an investigation; (6) investigation findings; (7) sanctions; and (8) an appeal of the investigation findings and/or sanctions.

The two most significant factors that affect how the institution addresses Prohibited Conduct concerns are: (1) how much information is available (e.g., whether the Respondent can be identified) and (2) whether the Claimant (if the Claimant’s identity is known)<sup>6</sup> is willing to be involved in an investigation and/or identified as having come forward with a complaint. For example, a Claimant may report a sexual assault, but may not – or may not be able to – provide the University with the name or other identifying information of the person who assaulted them. OIE follows up with the Claimant to obtain that information; however, if the information is not available, generally an investigation is not possible unless the information is provided by a third party or the University is otherwise able to discern the identity of the person. If the University cannot discern the identity of the Respondent, the University will offer resources and support to the Claimant, including interim measures (see below). The University will also ensure the Claimant is aware that they may come forward with additional information at a later date, at which time the University will take further action as appropriate. If the matter involves possible criminal activity, OIE will also provide all information known to OIE at that time to the Division of Public Safety and Security (DPSS).

<sup>6</sup> OIE often receives complaints about incidents from third parties who sometimes are unable or unwilling to identify the parties involved.

The following is a discussion of the various actions taken by the University in response to the 218 reports of Prohibited Conduct.

#### **a. Resources and Interim Measures**

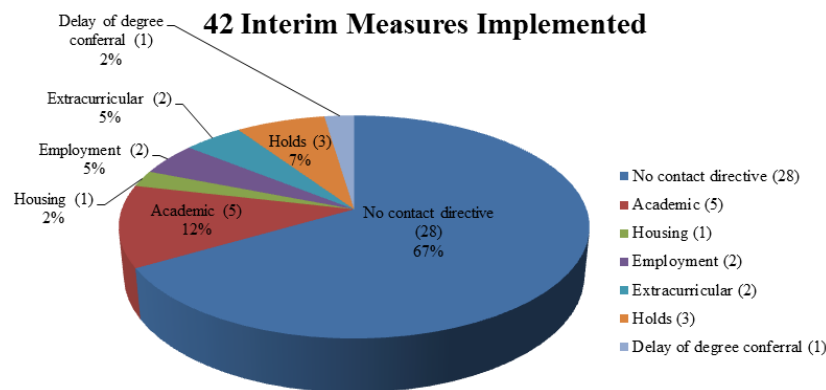
One of the first steps the University takes when a Prohibited Conduct concern is raised is to offer the Claimant and the Respondent resources and support. Claimants are offered support through the Sexual Assault Prevention and Awareness Center (SAPAC), while Respondents are offered support through the Respondent Support Program within the Dean of Students Office. In addition, students have access to a number of other support resources on campus, including but not limited to Counseling and Psychological Services (CAPS) and the Office of the Ombuds. SAPAC, CAPS, and the Office of the Ombuds are confidential resources, meaning that disclosures of Prohibited Conduct made to these offices are not reported to OIE; however, these offices can assist students who wish to report Prohibited Conduct concerns to OIE in doing so.

Another aspect of the support provided by the University is to offer “interim measures.” Interim measures are steps taken to provide for the safety and well-being of the parties and/or the campus community, and can include a variety of actions taken by numerous offices on campus. Under the Policy, the University has clarified the distinction between “supportive measures” - those designed to address an individual student’s safety, well-being, and continued access to educational opportunities, and which are available regardless of whether an individual elects to pursue an OIE or criminal investigation – and “protective measures,” which involve action by the University that impacts the Respondent, and are only available in connection with a University investigation. Examples of interim measures may include changes to academic schedules, changes to housing arrangements, safety escorts, “no contact” directives, interim suspension, etc. Interim 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. Consistent with federal guidance applicable during the reporting period, interim measures are implemented with the least possible burden to the Claimant.

We note that there are likely instances where the University has provided interim measures and support to students, but the information is not captured in this report. For example, a student may seek confidential assistance from SAPAC before reporting their concerns to OIE, or the student may never report their concerns to OIE but only seek confidential assistance. SAPAC and/or other offices may assist the student with a variety of services such as academic accommodations, 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 have been provided that are not accounted for here.

During this past year, interim measures and resources were made available when the identity of one or more of the parties was known. Interim measures were implemented in 34 instances; in the remaining matters, interim measures were offered, but the offer was not accepted or interim measures were not necessary given the known circumstances. For example, two students involved in a report of misconduct may not have any overlap in class schedules, employment, housing, or otherwise require separation or other accommodations.

In the 34 cases in which interim measures were used, the nature and type of interim measure varied. The specific interim measures depend upon a student’s request and the University’s assessment of what is necessary and appropriate to provide for the safety and well-being of the Claimant and the campus community. In several cases, more than one interim measure was implemented, resulting in a total of 42 interim measures.



In 28 cases, each of which involved an OIE investigation, OIE issued a formal No Contact Directive.<sup>7</sup> In one case, the University provided housing accommodations. Housing accommodations include actions such as relocating or removing one of the parties from housing, providing emergency housing on or off campus, or restricting a Respondent from a particular residence hall or area of a residence hall.

In two cases, interim measures involved employment arrangements. Interim measures involving students’ employment may include, for example, separating students’ workspaces, or adjusting a student’s schedule.

In five instances, academic accommodations were provided. Academic accommodations can include, but are not limited to, actions such as changing class schedules so that the parties are not in the same course, removing a Respondent from an academic program, changing a seating chart, or informing faculty that a student may need an extension for assignments or exams and/or may miss classes.

<sup>7</sup> There are instances in which a no contact directive is not issued. This may occur, for example, when the Respondent is not affiliated with the University, the Respondent’s identity is not known to the University, or a Claimant specifically requests anonymity and the directive cannot be issued without identifying the Claimant. In each matter that results in an investigation, the Respondent is directed not to have any contact with the Claimant.

Two measures were put into place that impacted extracurricular activities, where parties were involved in a shared activity.

The University placed holds on three Respondents' student accounts, which can affect, among other things, registration, and the ability to obtain copies of transcripts or diplomas without approval.<sup>8</sup>

### **Reported Issues that Did Not Fall Under the Policy**

In some instances, OIE received reports of Prohibited Conduct that, upon review, were determined not to fall under the Policy. This year, of the 218 reported incidents, 82 were not within the scope of the Policy. Many such reports involve behavior that was committed by an individual who is not affiliated with the University. For instance, a student may report a sexual assault that occurred while the student was traveling in another state by a person who has no association with the University. This student would still be offered resources and support through the University. As another example, the University may receive a report from a third party, but the person who is reported to have experienced the unwanted behavior informs OIE that they did not in fact experience any Prohibited Conduct. Again, the student would be offered resources and support and encouraged to contact OIE if any Prohibited Conduct were to occur in the future. In other cases, the reported behavior, even if supported by evidence, would not constitute Prohibited Conduct under the Policy. In these instances, if the underlying behavior is inappropriate or a violation of another University policy, the matter will be referred by OIE to the appropriate office for follow up.<sup>9</sup>

Of the 82 reports that did not fall under the Policy for various reasons, including those described above, the majority of reports involved possible sexual assault or sexual harassment, as shown on the following chart.<sup>10</sup>

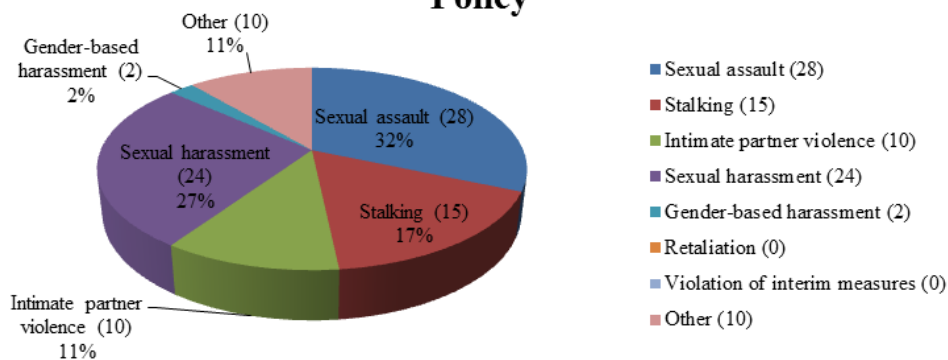
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<sup>8</sup> Holds that are placed on a Respondent's account during a period of suspension as a result of a finding of responsibility are not considered interim measures, but rather occur as part of the temporary separation sanction.

<sup>9</sup> In many instances, the Office of Student Conflict Resolution is the appropriate office to address such concerns. In other instances, a reported matter may be best addressed by the Dean of Students Office, Housing, or some other appropriate office.

<sup>10</sup> As noted above, because some reported concerns may involve multiple types of allegations, the 82 cases that fell outside the scope of the Policy involved a total of 89 reported allegations.

## 82 Reported Issues Did Not Fall Under the Policy



Although these 82 reports did not fall under the Policy, the University still encourages members of the campus community to report any potential Prohibited Conduct so that it may take steps to ensure that members of the University community who may have been affected by the reported behavior receive support and information about appropriate resources. The University will also put measures in place to provide for the safety of individuals and the campus community, as appropriate. As with every report of Prohibited Conduct, if the underlying behavior may constitute criminal activity, the preliminary information reported to OIE is shared with DPSS.

### b. Review Panel

Some Prohibited Conduct reports immediately proceed to investigation, but there are instances when an investigation may not be wanted (e.g., a Claimant requests confidentiality or asks that the University not pursue the matter). In the instances where the Claimant declines to participate, requests confidentiality, and/or asks that the University not investigate the report, the matter is considered by a review panel. The review panel consists of University faculty and staff who have specific expertise such that they are able to offer varying perspectives and advice to the Title IX Coordinator to determine the appropriate response by the University. As noted in the Policy:

These panel members will represent the interests of the University, law enforcement, survivors of Prohibited Conduct, persons accused of Prohibited Conduct, and/or other offices as deemed necessary and appropriate under the circumstances.

The review panel is charged with balancing U-M's tradition of supporting survivor-centered practices with U-M's equally strong commitment to providing due process to the Respondent and promoting a safe community.

See Policy, [Review Panel](#), pages 20-22.

The Title IX Coordinator, after receiving and considering the review panel's information and advice, determines appropriate next steps. As noted above, even in those instances in which the ultimate decision is not to proceed to investigation, the University may take other action, such as (but not limited to) providing interim measures/resources, providing education and training to the Respondent, and communicating that an investigation may occur at a later date if more information becomes available or the Claimant subsequently decides to participate in the investigation. Finally, even if no investigation ensues, alleged conduct that could be criminal in nature is reported to DPSS.

While the University encourages reporting of these matters, we also recognize that individuals may have varied reasons for choosing whether and when to pursue formal resolution of their concerns. The University seeks to honor and respect the wishes of each individual Claimant, while still meeting its obligations to the campus community as a whole. The Title IX Coordinator is guided in these determinations by consideration of factors identified in the Policy, specifically:

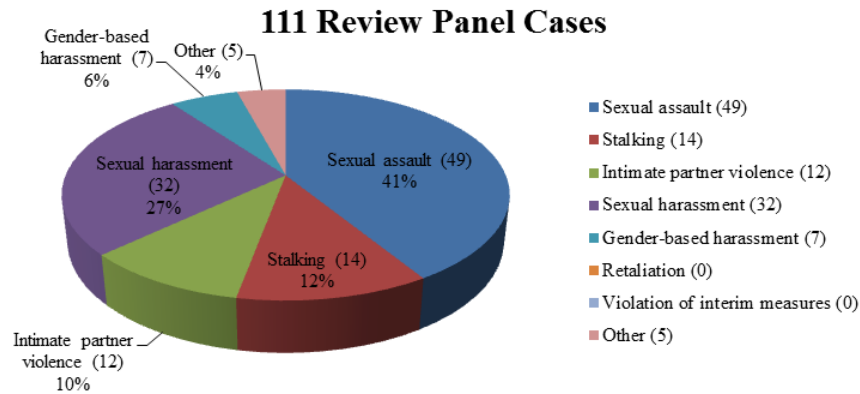
- The totality of the known circumstances;
- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the Claimant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other Prohibited Conduct or other misconduct by the Respondent;
- Whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- The Claimant's interest not to pursue an investigation or disciplinary action and the impact of such actions on the Claimant;
- Whether the University possesses other means to obtain relevant evidence;
- Due process considerations for both the Claimant and the Respondent;
- The University's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

See Policy, [Review Panel](#), pages 20-22.

During the past year, of the 136 reports of Prohibited Conduct that fell under the Policy, 111 were considered by the review panel. As shown in the following chart, the majority of cases considered by the review panel involved reported sexual assault or sexual harassment:<sup>11</sup>

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<sup>11</sup> As noted above, because some reported concerns may involve multiple types of allegations, the 111 cases considered by the review panel involved a total of 119 reported allegations.



After considering these 111 cases and receiving information and advice from the review panel, the Title IX Coordinator made the following decisions:

- 108 cases were “closed pending additional information or concerns.” This occurs for a variety of reasons. For example, the Claimant may not have been able to (or may not have chosen to) identify the Respondent; or there was not compelling justification to override the Claimant’s request to not investigate the matter. Each case was considered separately, and in all instances the Claimant, if known, was offered resources and support including interim measures. Claimants were also informed that they may move forward with an investigation at a later time if they wish. If the report involved possible criminal behavior, DPSS was notified.
- In two instances, the Title IX Coordinator determined that it was necessary to conduct an investigation based on the information the University received. In each of these cases, the Claimant ultimately elected to participate in some, but not all, aspects of the investigation process. These reports involved allegations of criminal behavior, and DPSS was notified.
- In one instance where the Claimant did not wish for an investigation to take place, other actions were taken to address the underlying concerns. Examples of other actions may include educational measures or seeking additional information from other University offices or potential witnesses. Even in such instances where other actions are taken in lieu of an investigation, Claimants and Respondents, where applicable, are offered interim measures and other resources and support. Likewise, if such a report involves possible criminal behavior, DPSS is notified. In this particular instance, there was no potential criminal conduct reported, and the parties were offered interim measures and other resources.

### **c. Alternative Resolution**

The Policy provides that in some limited circumstances (never when sexual assault is reported to have occurred) voluntary alternative resolution may be an appropriate means of addressing concerns of Prohibited Conduct. All requests for voluntary alternative resolution under the Policy must be approved by the Title IX Coordinator.

During the past year, of the 136 reported incidents that fell within the scope of the Policy, there were no cases in which the parties elected, and the Title IX Coordinator approved, to proceed to alternative resolution to resolve the complaint in lieu of an investigation. It is also noted that in some cases, following an investigation or other resolution of a complaint, parties may request to participate in alternative resolution processes to address related concerns after the underlying complaint has been otherwise addressed by the University. In all cases, these processes may only occur where participation is fully voluntary by both parties. This year, voluntary alternative resolution was not used following a formal investigation in any instances.

### **d. Investigations**

As noted throughout this report, the University considers each case, and takes appropriate action including offering confidential support, resources and/or interim measures, and notifying DPSS of possible criminal activity. However, whether an investigation can ensue depends on the available information and consideration of each individual Claimant's wishes, balanced with the need to provide for the overall safety of the campus community. In most instances, an investigation occurs because behavior that falls under the Policy has been reported and there is sufficient information available to conduct an investigation. This year, OIE conducted twenty-eight investigations. Twenty-six of these immediately proceeded to investigation upon the Claimant's request, and another two proceeded to investigation after consideration through the review panel process discussed above. Although there were reported incidents that fell under the Policy that did not proceed to investigation, that does not mean those reports were not reviewed or that action was not taken.

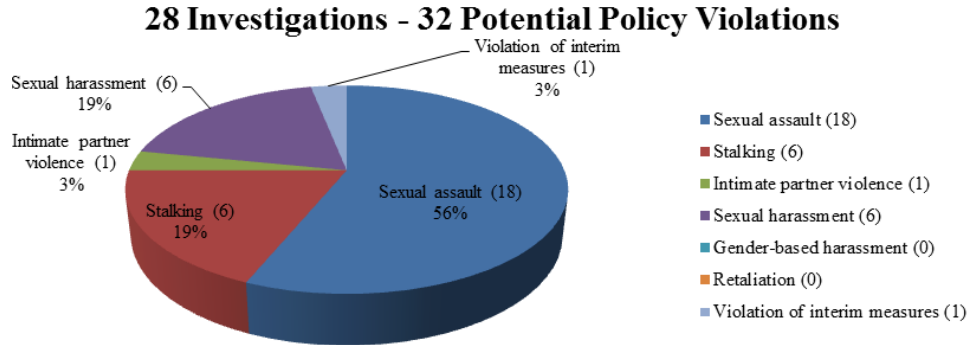
Of the 28 investigations undertaken during the past year, eighteen concerned allegations of sexual assault. Sexual assault encompasses a broad spectrum of behavior that includes many forms of unwanted sexual touching. Specifically, as noted earlier in this report, the Policy defines sexual assault as follows:

Sexual assault is touching of a sexual nature, including: oral-genital contact, anal intercourse, or vaginal intercourse; anal, oral or vaginal penetration with an object; or other sexual contact that occurs without consent. Sexual contact includes: (a) intentional touching of the breasts, buttocks, groin, or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; or (b) making another touch you or themselves with or on any of these



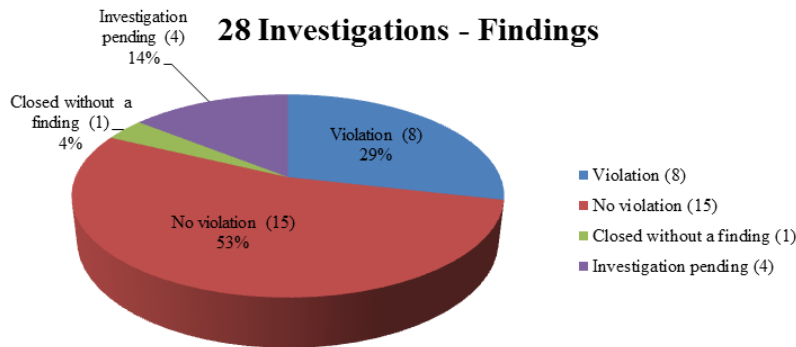
body parts. Consent, as well as the terms force, coercion, and incapacitation are further defined [in the Policy].

Since a single investigation may involve allegations of more than one type of Prohibited Conduct, within the 28 investigations, OIE investigated 32 potential policy violations.<sup>12</sup>



In making a finding, OIE uses the “preponderance of the evidence” standard set forth in the 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. This preponderance of the evidence standard requires that the evidence supporting each finding be more convincing than the evidence offered in opposition to it.

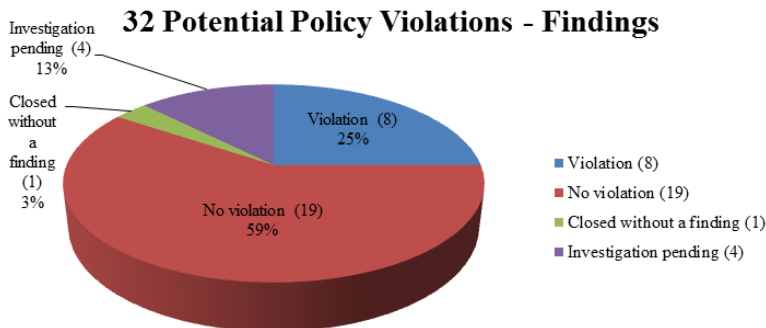
Of the 28 investigations, approximately 29% (8 cases) resulted in a finding that the preponderance of the evidence supported a conclusion that the Policy had been violated; and in approximately 53% (15 cases) the evidence did not support that finding. One case was closed at the Claimant’s request prior to reaching a determination, and four cases were pending as of the date of data collection for this report.



As mentioned above, in three of the twenty-eight cases, there were allegations of multiple potential policy violations at issue within each of the two investigations. When looking at each

<sup>12</sup> Three investigations involved multiple allegations. Two of these involved two types of allegations, and one involved three types of allegations.

of the 32 potential policy violations separately, versus looking at the 28 cases as a whole, there were nineteen findings that the policy was not violated, eight findings that it was violated, one case closed without a finding, and four cases in which the finding was pending as of the date the data was compiled for this report.<sup>13</sup>



When OIE finds that there is insufficient evidence to conclude that the Policy was violated, that does not necessarily mean that the conduct did not occur. In some instances, for example, there may be insufficient evidence to support a conclusion that the behavior occurred; or, there may be sufficient evidence to conclude that the conduct occurred, but the conduct did not fall within the definition of any type of Prohibited Conduct under the Policy. For more detailed information about OIE’s findings, please see Appendix A.

After OIE reaches a conclusion as to whether the Policy has been violated, it issues an investigation report that is forwarded to the Office of Student Conflict Resolution (OSCR). OSCR facilitates the sanctioning and appeals processes.

### Sanctions

When a Respondent is found to have violated the Policy, the University takes action, through the Sanctioning Process facilitated by OSCR, designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects. Claimants and Respondents have an opportunity to submit an input statement and an impartial sanctioning board then determines sanctions, as outlined in the Policy. As noted above, this is the first year that this Policy has been in effect and the first year that the sanctioning board has been in use.

As noted above, in the past year there were eight cases, representing the same number of Policy violations, in which a Respondent was found to have violated the Policy. In two of these cases, either the sanctioning process or an appeal was still pending as of the date data was gathered for this report, meaning that final sanctions had not yet been determined at that time.

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<sup>13</sup> This data reflects the findings as issued by OIE; however, as described further below, as of the date that data was gathered for this report, there were two appeals of an OIE finding pending. One of these involved a finding of a violation of the Policy, and the other involved a finding that the Policy was not violated.

The University generally imposes multiple sanctions on a Respondent who is found responsible for violating the Policy. As such, while sanctions have thus far been imposed in six of the cases where a Respondent was found to have engaged in misconduct under the Policy, more than six particular sanctions have been issued. The summaries below demonstrate the types of sanctions that have been implemented and how many times each was used this year, but they do not illustrate the various combinations of sanctions that have been implemented with respect to each particular case. For a more detailed chart that demonstrates the specific combination of sanctions issued in each of the six cases where final sanctions have been determined, please see Appendix A.

It is important to note that the charts below represent the sanctions imposed this year alone, and do not necessarily represent the full range of sanctions available when a student is found responsible for engaging in Prohibited Conduct.

### **a. Expulsion**

An expulsion is a sanction that prohibits the Respondent from ever enrolling in coursework or participating in University programs. This year, one student who was found responsible for engaging in sexual assault was expelled from the University.

### **b. Suspension**

A suspension is a period of time during which the Respondent is unable to enroll in classes or participate in University programs. This year, one suspension of one year or less was imposed upon a student who was found responsible for engaging in stalking under the Policy.<sup>14</sup>

In general, in cases in which a suspension is imposed, the Respondent may also be subject to a period of disciplinary probation upon returning to the University, and required to complete other sanctions, including educational measures. Typically, a Respondent who is suspended from the University also must complete the educational measures and meet with an appropriate staff member(s) before the Respondent is approved to return. A Respondent's failure to complete the requirements during the period of suspension may prolong the suspension since the Respondent's re-enrollment is often contingent upon completion of these measures in addition to the specified period of time away from the University.

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<sup>14</sup> For purposes of this report, the length of the separation period is measured by calendar year rather than academic year.

### **c. Disciplinary Probation**

As described in the Policy, disciplinary probation is “a designated period of time during which the student is not in good standing with the University.” In essence, any further misconduct, whether sexual or gender-based or not, will result in increased sanctions, up to expulsion. Disciplinary probation may follow a period of separation; however, disciplinary probation may also be imposed where the Respondent has not been separated from the University.

This year, three Respondents were sanctioned with disciplinary probation, in addition to other sanctions. In one of these cases, disciplinary probation was imposed following a suspension, and will continue until the Respondent graduates or disenrolls from the University. In another, the Respondent has left the University but remains on disciplinary probation such that they are not eligible to re-enroll during a period of time greater than one year.

### **d. No Contact Sanction**

Each Respondent who has been sanctioned this year is subject to a continuing requirement that they not have contact with the Claimant. A no contact sanction is typically included in all cases where a Respondent is found to have violated the Policy, but may not be necessary or included where the Respondent is already prohibited from contacting the Claimant, for example, if a Personal Protection Order or other restraining order is in place.

### **e. Employment Restriction**

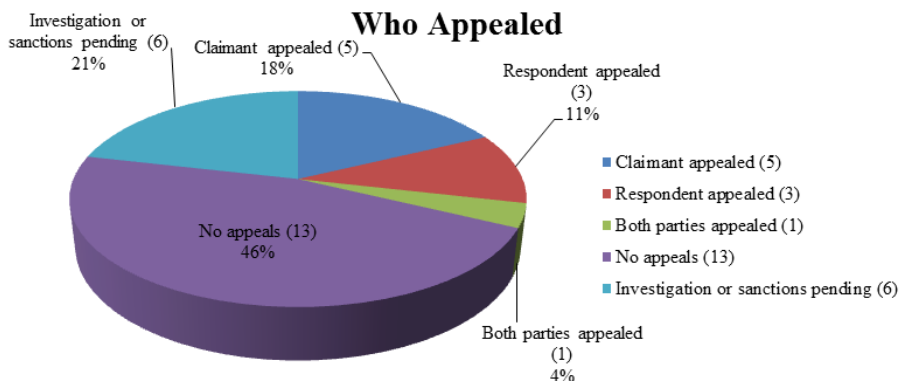
This year, two Respondents were sanctioned with restrictions on their ability to be employed by the University of Michigan. In one case, where the Respondent was expelled, the Respondent is indefinitely prohibited from being employed at the University. In the other, the Respondent is prohibited from being employed at the University of Michigan during a period of time greater than one year.

### **f. Educational Measures**

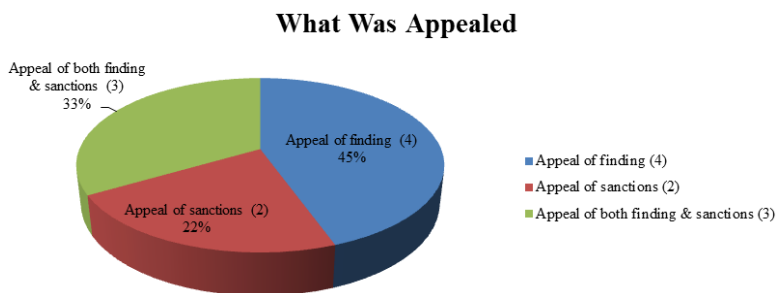
Educational measures are sanctions that involve the Respondent in a project, training, or other experience that is intended to prevent the recurrence of the same or similar conduct through education. For example, a student may be directed to engage in one-on-one sexual harassment training, complete required reading, or conduct additional research and/or writing assignments. Typically, when the Respondent is still affiliated with the University, or could seek to return at some time in the future, educational measures are included with other sanctions. This year, they were included as part of the sanctions in each case in which the Respondent was not expelled from the University. It is noted that no student received only educational sanctions; rather, they received educational measures in addition to other sanctions.

## Appeals

Both the Claimant and the Respondent have the opportunity to appeal the outcome of an investigation and, if there was a finding that the Policy was violated, both parties may also appeal the sanctions. As shown in the following chart, nine of the 28 investigations – approximately 32% – resulted in an appeal. Under the Policy, each appeal is considered by an external reviewer. The external reviewer then issues recommendations to the Vice President for Student Life, which the Vice President for Student Life may either accept or modify.

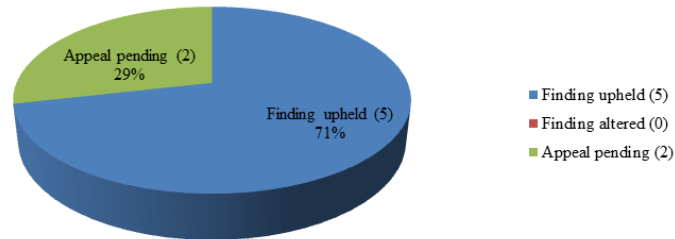


Either party can appeal the finding, the sanctions, or both. This year, one party appealed both the finding and the sanctions. There may be cases in which one party may appeal the finding while the other appeals the sanctions, as occurred in one case this year. As a result, there were twelve appeals within the nine cases that involved appeals.



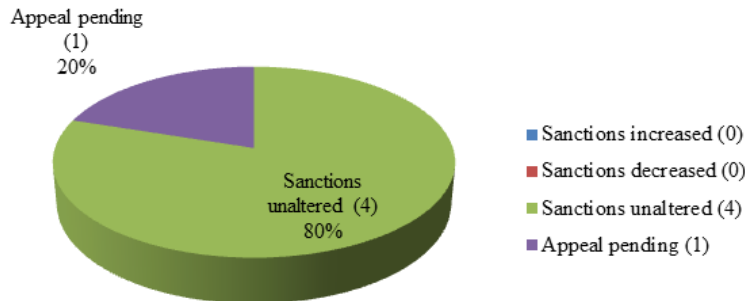
Four Claimants appealed a finding of no violation, while three Respondents appealed a finding of a violation. Two of these appeals were pending as of August 18, 2017; the other five resulted in no change to the finding.

### 7 Appeals of the Finding



In two cases, the Claimant appealed the sanctions and in three cases, the Respondent filed an appeal of the sanctions. One of the appeals of sanctions was pending as of August 18, 2017; the other four resulted in no change to the sanctions.

### 5 Appeals of the Sanctions



### Education and Prevention Measures

The University continues to focus on educational measures intended to prevent Prohibited Conduct. The information contained in this report regarding such efforts is intended to provide an illustrative, not exhaustive, understanding of such efforts.

With the revision of the Policy effective July 1, 2016, extensive training efforts were implemented to educate the campus community about changes to the Policy, as well as reporting options and the various reporting responsibilities of University faculty and staff. Each department within Student Life received training from OIE, SAPAC, and DPSS. Additional trainings were provided to various units across campus by OIE, DPSS, and the Office of the General Counsel.

As in past years, all incoming undergraduate, graduate, and professional students are required to participate in *Haven—Understanding Sexual Assault*, an interactive on-line program that relies on prevention theories and educational strategies to help students understand the many aspects of sexual assault. Topics covered include common myths about sexual assault, the definition of consent, the link between sexual assault and alcohol, and bystander intervention. Incoming

undergraduate students also complete Alcohol.edu which provides information about the impact of alcohol on sexual decision-making.

During orientation, first-year students attend the University of Michigan Educational Theatre Company's presentation of *Stand Up, Step In, Speak Out*. This program is a direct-talking sketch regarding campus sexual assault. The sketch addresses myths around rape culture, men's response to combat a culture of sexual assault, how to help a friend who has been affected by sexual assault and other issues related to sexual and intimate partner violence.

In addition, every fall semester, all first-year undergraduate students have the opportunity to attend *Relationship Remix*, an educational program presented by SAPAC and the University Health Service's Sexperteam. The program consists of small group (approximately 20 participants) workshops on relationships, sex, and decision making. Participants reflect upon personal values, discuss healthy relationships, and practice skills related to consent.

First-year undergraduate students also have the opportunity to participate in *Change It Up!* - an interactive bystander intervention program co-facilitated by students and Student Life professional staff. The program explores the impact of students' identities and experiences on their interactions, and aims to help participants develop the tools to safely and effectively intervene in situations that may be harmful.

All new and returning intercollegiate athletes, as well as coaches and training staff, marching band members, ROTC members, and Club Sports athletes and coaches receive a ninety minute annual training that addresses sexual assault, intimate partner violence, sexual and gender-based harassment, and stalking as well as hazing prevention and bystander intervention.

The University continues to work with the surrounding community via *Raise the Bar*. Through this program, the University works in collaboration with community partners and with local bar owners to educate bar staff regarding sexual assault and bystander intervention. Through *Raise the Bar*, the University reaches beyond the campus community in its efforts to provide a safe and healthy environment for its students.

In addition to these efforts, there are a variety of in-person educational sessions that are geared toward specific groups, such as, for example, Residence Education staff, academic counselors, law enforcement agencies, and summer camp counselors.

The University is in the second year of its three-year, multi-phase community education media campaign, *Support. Listen. Empower.*, which is designed to increase the university community's knowledge of campus resources and reporting options, promote bystander intervention, and encourage reporting of incidents to the University.

## Conclusion

We want 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 available under the Policy, or to report an incident of Prohibited Conduct, please visit: [studentsexualmisconductpolicy.umich.edu](http://studentsexualmisconductpolicy.umich.edu).

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 Title IX Coordinator:

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Associate Vice Provost for Academic and Faculty Affairs  
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(734) 763-0235  
[institutional.equity@umich.edu](mailto:institutional.equity@umich.edu)



## Appendix A

	<b>Type</b>	<b>Finding</b>	<b>Final Sanctions</b> <sup>15</sup>	<b>Appeal</b>	<b>Outcome of Appeal</b>
<b>1</b>	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
	Stalking	No violation	Not applicable	None	Not applicable
	Sexual harassment	No violation	Not applicable	None	Not applicable
<b>2</b>	Sexual assault (penetration)	No violation	Not applicable	Claimant appealed the finding	Finding upheld
<b>3</b>	Sexual assault (penetration)	No violation	Not applicable	Claimant appealed the finding	Finding upheld
<b>4</b>	Sexual assault (penetration)	Violation	No contact; educational measures <sup>16</sup>	Respondent appealed the finding; Claimant appealed the sanctions	Finding upheld; Sanctions upheld
<b>5</b>	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
<b>6</b>	Sexual assault (penetration)	No violation	Not applicable	Claimant appealed the finding	Finding upheld
<b>7</b>	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
<b>8</b>	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
<b>9</b>	Sexual assault (penetration)	Closed without a finding at Claimant's request	Not applicable	Not applicable	Not applicable
<b>10</b>	Sexual assault (details unknown; Claimant did not participate in investigation)	No violation	Pending	Pending	Pending
<b>11</b>	Sexual assault (penetration)	Violation	Pending	Pending	Pending
<b>12</b>	Sexual assault (penetration)	Pending	Pending	Pending	Pending
<b>13</b>	Sexual assault (no penetration)	No violation	Not applicable	None	Not applicable
<b>14</b>	Sexual assault (no penetration)	Violation	Disciplinary probation/restriction on re-enrollment;	None	Not applicable

<sup>15</sup> This data reflects the final sanctions imposed after both the sanctioning and appeals processes are complete.

<sup>16</sup> Respondent was no longer formally affiliated with the University of Michigan at the time sanctions were determined.

	Type	Finding	Final Sanctions <sup>15</sup>	Appeal	Outcome of Appeal
			employment restriction; no contact; extracurricular restriction; educational measures <sup>17</sup>		
15	Sexual assault (no penetration)	Violation	No contact; educational measures	Claimant appealed the sanctions	Sanctions upheld
16	Sexual assault (no penetration)	Pending	Pending	Pending	Pending
17	Sexual assault (no penetration)	Violation	Expulsion; transcript notation; employment restriction; no contact	None	Not applicable
18	Sexual assault (no penetration)	Pending	Pending	Pending	Pending
19	Stalking  Sexual harassment	No violation  No violation	Not applicable (Respondent did complete sexual harassment training)  Not applicable	None	Not applicable
20	Stalking	Violation	Suspension (less than one year); disciplinary probation (greater than one year); no contact; educational measures	Respondent appealed finding and sanctions	Finding upheld; sanctions upheld
21	Stalking	Violation	Disciplinary probation; no contact; educational measures	Respondent appealed the sanctions	Sanctions upheld
22	Stalking	No violation	Not applicable	None	Not applicable
23	Stalking	Pending	Pending	Pending	Pending
24	Intimate partner violence  Sexual harassment	No violation  No violation	Pending  Pending	Claimant appealed the finding	Pending
25	Sexual harassment	No violation	Not applicable (Respondent did complete an educational measure)	None	Not applicable
26	Sexual harassment	No violation	Not applicable (Respondent did complete an educational measure)	None	Not applicable
27	Sexual harassment	No violation	Not applicable (Respondent did complete an educational measure)	None	Not applicable
28	Violation of interim measures	Violation	Pending	Respondent appealed the finding and sanctions	Pending

<sup>17</sup> Respondent was no longer formally affiliated with the University of Michigan at the time sanctions were determined.

## Appendix B

	<b>Type</b>	<b>Finding</b>	<b>Final Sanctions</b> <sup>18</sup>	<b>Appeal</b>	<b>Outcome of Appeal</b>
<b>1</b>	Sexual assault (penetration) Sexual harassment	Violation Violation	Expulsion with transcript notation <sup>19</sup>	Respondent appealed both the finding and the sanctions	Finding upheld; Sanctions upheld
<b>2</b>	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
<b>3</b>	Sexual assault (penetration)	Violation	Voluntary permanent separation, no contact	None	Not applicable
<b>4</b>	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
<b>5</b>	Sexual assault (penetration)	No violation	Voluntary permanent separation, no contact	Claimant appealed the finding	Finding modified to violation
<b>6</b>	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
<b>7</b>	Sexual assault (no penetration)	No violation	Not applicable	None	Not applicable
<b>8</b>	Sexual assault (no penetration)	Violation	Not applicable	Respondent appealed the finding	Finding modified to no violation
<b>9</b>	Sexual assault (no penetration)	No violation	Not applicable	None	Not applicable
<b>10</b>	Sexual assault (no penetration)	No violation	Not applicable	None	Not applicable
<b>11</b>	Sexual assault (no penetration)	No violation	Not applicable	Claimant appealed the finding	Finding upheld
<b>12</b>	Sexual assault (no penetration)	No violation	Not applicable	None	Not applicable
<b>13</b>	Sexual harassment	No violation	Not applicable	None	Not applicable
<b>14</b>	Sexual harassment	Violation	Voluntary temporary separation (one year or less); Disciplinary probation (greater than one year), no contact, educational measures	None	Not applicable
<b>15</b>	Sexual harassment	No violation	Not applicable	Claimant appealed the finding	Finding upheld
<b>16</b>	Sexual harassment	No violation	Not applicable	None	Not applicable
<b>17</b>	Sexual harassment	No violation	Not applicable	None	Not applicable
<b>18</b>	Sexual harassment	No violation	Not applicable	None	Not applicable

<sup>18</sup> This data reflects the final sanctions imposed after both the sanctioning and appeals processes are complete.

<sup>19</sup> Where the Respondent is found responsible for multiple allegations, sanctions are implemented based on the collective violations.