

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

July 1, 2017 - June 30, 2018



Office for Institutional Equity
October 22, 2018

October 22, 2018

To Members of the University of Michigan Community:

For the past five years, the Office for Institutional Equity (“OIE”) has issued [annual reports](#) regarding student sexual misconduct. These annual reports are an important part of our commitment to be transparent in the number of student sexual misconduct matters brought to the University’s attention and how they are addressed.

This year, OIE is sharing this additional report, which provides information about sexual misconduct reports concerning faculty, staff, and third parties and how those reports were addressed. This report covers matters addressed from July 1, 2017 through June 30, 2018. In future years, OIE will produce a single annual report regarding all sexual misconduct concerns brought to its attention, including concerns about students, faculty, staff, and third parties.

Most sexual misconduct reports against faculty, staff, and third parties are addressed under the University’s [Sexual Harassment](#) policy (SPG 201.89) and related procedures. The *Sexual Harassment* policy addresses all forms of sexual harassment, including sexual assault and stalking based in 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,

Jeffery Frumkin
Associate Vice Provost for Academic and Faculty Affairs
and Interim Senior Director, 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.....	6
a. Matters Addressed Under CBAs.....	6
b. Investigations	6
c. Reviews.....	8
d. Consultations.....	8
e. Resources and Interim Measures	8
Findings.....	9
a. OIE Investigations	9
b. HR Matters.....	11
Corrective Action	11
a. OIE Investigations	11
b. HR Matters.....	12
Grievance of Corrective Action	13
a. Grievance of Corrective Action Arising from OIE Investigations	13
b. Grievance of Corrective Action Arising from HR Matters	13
Education and Prevention Measures	13
Conclusion.....	14

Executive Summary

This is the first 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 address 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. The *Sexual Harassment* policy addresses all forms of unwelcome conduct of a sexual nature, including sexual harassment, sexual assault and stalking that has a basis in romantic or sexual interest. The *Violence in the University Community* policy addresses intimate partner violence and stalking that is not based on romantic or sexual interest.

This report speaks to matters addressed between July 1, 2017 and June 30, 2018. During this period, the University received 235 sexual misconduct reports involving faculty, staff, and third parties, which is an increase over the 90 reports received during the same time period the previous year. We believe that this increase is the result of our community’s enhanced awareness of these issues, how to report concerns, and ongoing training efforts.

Of the 235 matters:

- 26 matters were investigated by OIE. Of these 26 investigations, 18 were completed at the time this report was issued.¹ All 18 investigations involved reports of sexual harassment. One of the 18 investigations included a second allegation of involving possible retaliation, which means there were a total of 19 matters investigated and 19 findings, as follows:
 - seven findings that the *Sexual Harassment* policy was violated
 - five findings that inappropriate behavior occurred, but the behavior was not sufficiently severe, persistent or pervasive as to create a hostile environment
 - seven findings that there was insufficient evidence to conclude the policy was violated
- 3 matters were addressed by Human Resources under relevant collective bargaining agreements
- 82 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. In these instances, OIE seeks available information so that the matter either can proceed to investigation or be addressed in another appropriate manner.
- 124 matters were “consultations.” Consultations are questions or reports that can be addressed appropriately by OIE without conducting a review or investigation.

OIE also engaged in significant training efforts on sexual misconduct issues, including training more than 4,900 individuals in 110 different educational sessions during the past fiscal year.

¹ Thirteen of the investigations were completed by the end of the Fiscal Year, which was June 30, 2018.

Introduction

The University has 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.

OIE is 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.

This report provides data regarding concerns that were reported under both policies from July 1, 2017 to June 30, 2018.² 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 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

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

OIE produces a separate [annual report addressing reports of sexual misconduct by students](#). Going forward, OIE will combine this report on faculty, staff and third party matters with the student report, thereby producing one annual report that addresses all sexual misconduct concerns addressed by the University.

What Conduct is Prohibited?

a. Sexual Harassment

The [Sexual Harassment](#) policy defines sexual harassment as:

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

² We note that the data contained in this document refers to incidents brought to OIE or HR’s attention between July 1, 2017 and June 30, 2018, regardless of when the incidents are alleged to have occurred.

- (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 SPG 201.89.

The policy also provides 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 SPG 201.89.

As noted in the examples, the Sexual Harassment policy defines 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 20-1.89 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 are addressed under the terms set forth in the collective bargaining agreement (“CBA”). That process is separate from OIE’s investigation process and is addressed through HR. Sexual misconduct matters that were addressed by HR under CBAs are noted in this report, as well.

b. Retaliation

The *Sexual Harassment* Policy also prohibits 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 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 235 reports of possible sexual misconduct by faculty and staff.³ 232 reports were addressed by OIE and the remaining three reports were addressed by Human Resources under applicable collective bargaining agreements. During the previous fiscal year, OIE addressed approximately 90 reports of sexual misconduct by faculty and staff, representing a 161% increase of reports received this year. We believe that this increase is the result of the University community's continued awareness of these issues and how to report concerns, as well as an increased societal awareness of sexual misconduct, such as through the #MeToo movement.

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.

Of the 235 reports received during this fiscal year, all concerned behavior that fell within the *Sexual Harassment* policy's definition of sexual harassment. One of the 235 reports also concerned potential retaliation under the *Sexual Harassment* policy. None of the reported conduct fell under the *Violence in the University Community* policy.

Since this is OIE's first annual report concerning reports of sexual misconduct by faculty and staff, OIE is not able to provide specific data comparing reports from year to year other than the percent increase from the previous year. Going forward, OIE will be able to provide data comparisons between each fiscal year.

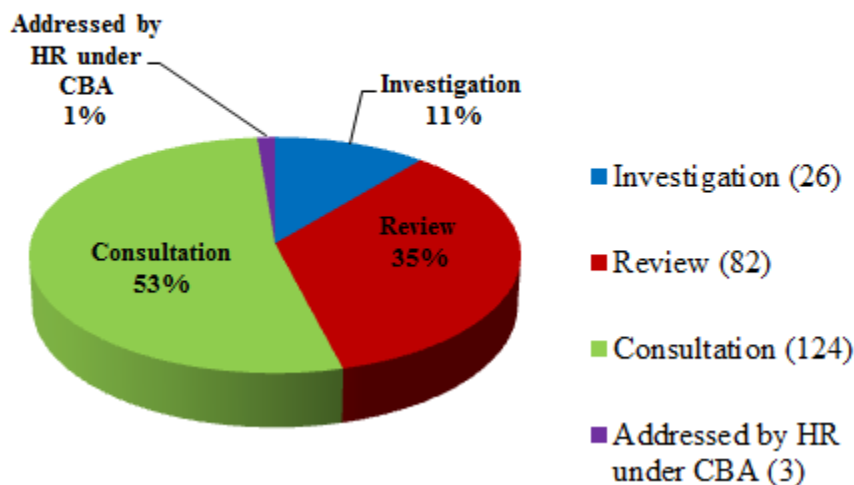
³ It is important to note that this report reflects the total number of sexual misconduct concerns that were reported during the relevant time period, and is likely to differ from the numbers of reported incidents of rape, fondling, stalking, and dating/domestic violence recorded in the University's [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 2018 fiscal year while this year's Annual Security Report reflects the 2017 calendar year).

Modes of Addressing Reports

The University responded to all 235 reports. OIE responded to each of the 232 reports it received and Human Resources did the same with the three reports it addressed. In all instances, individuals who reported concerns were informed of available resources and options.

The following chart illustrates the manner in which the University responded to the 235 reports received during the 2018 fiscal year:

235 Issues Reported: Response



a. Matters Addressed Under CBAs

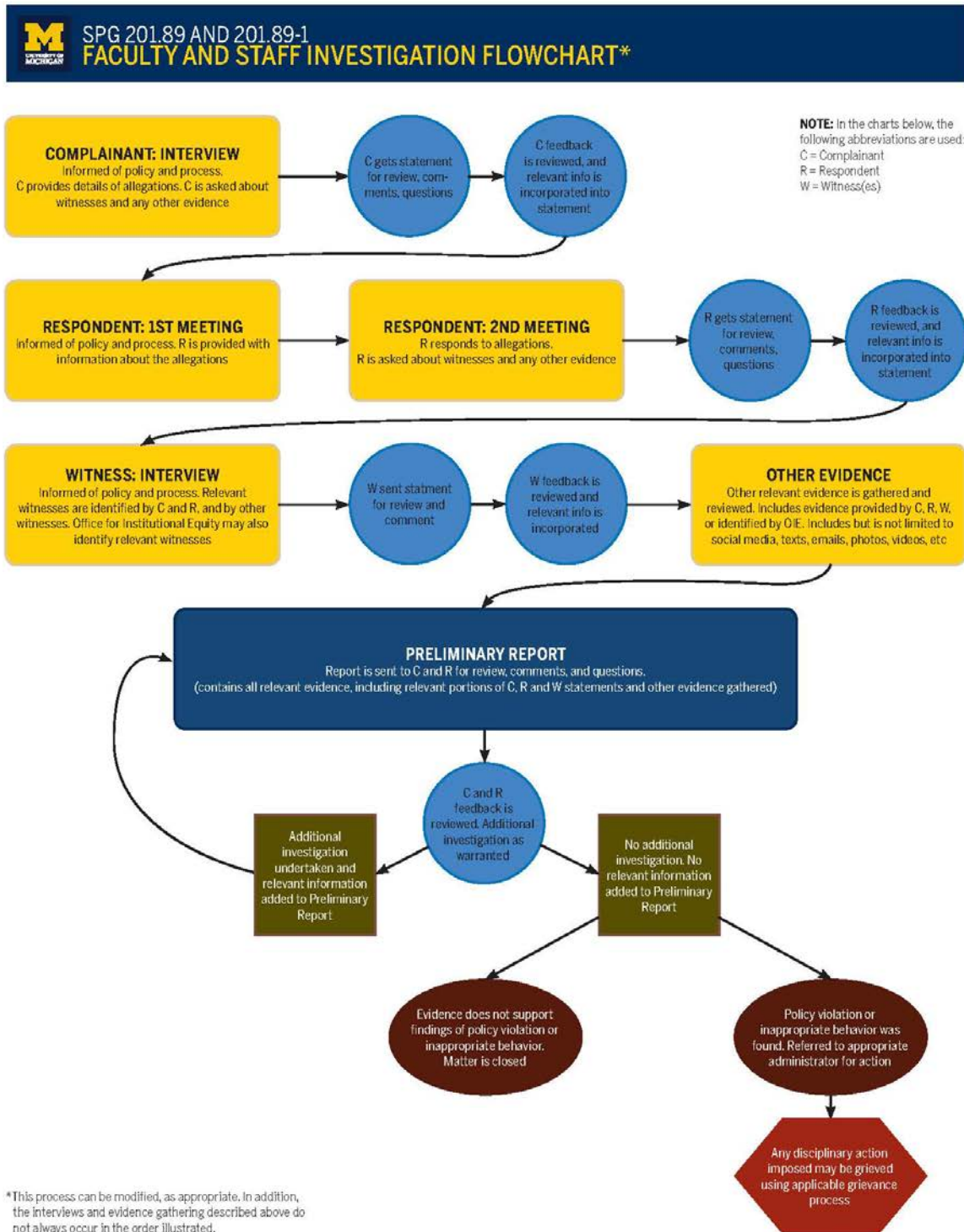
When sexual misconduct concerns are brought against union employees, the terms of that union's collective bargaining agreement with the University determine whether the matter is addressed using the procedures outlined in the CBA or whether the matter is referred to OIE.

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

b. Investigations

Of the 232 reports received by OIE, 26 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. The investigation is conducted under the [Procedural Guidelines](#) associated with the *Sexual Harassment* policy. OIE's investigation process is outlined in more detail in Information Sheets provided to [complainants](#), [respondents](#) and [witnesses](#). This flowchart also outlines the investigation process:



c. Reviews

Of the 232 reports received by OIE this year, 82 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 223 matters, 124 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), and the [Faculty Ombuds](#).⁴ The

⁴ This year, the University will hire a Staff Ombuds, which will be an additional confidential resource for staff.

[Department 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 “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.

This year, OIE provided interim measures in 10 of its 26 investigations. In these 10 cases, one or more of the following interim measures were used:

- placing an employee on a temporary suspension
- restricting an individual from certain buildings to avoid the parties having contact with one another
- supervisory change
- relocation of the complainant to an alternate workspace at their request

When interim 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. In addition, steps are taken to reduce the impact any imposed interim measures might have on the parties. For example, it may be possible for a party to work in a different location on campus rather than be placed on leave.

We note that there are likely instances where the University has provided interim measures and other forms of support to persons raising sexual misconduct concerns about employees and third parties, but the information is not captured in this report. For example, an individual may seek confidential assistance from SAPAC before reporting their concerns to OIE, or an individual may never report their concerns to OIE but only seek confidential assistance. SAPAC and/or other offices may assist the individual with a variety of services such as a change in course schedule, 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 four findings:

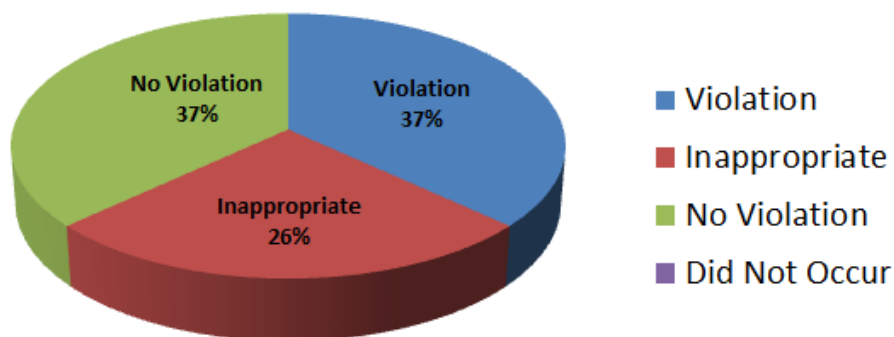
- A policy violation – Unwelcome conduct of a sexual nature occurred and was sufficiently severe, persistent or pervasive as to create a hostile environment
- A finding of inappropriate behavior – Unwelcome conduct of a sexual nature occurred and was inappropriate, but not sufficiently severe, persistent 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
- The behavior did not occur as reported

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 26 investigations initiated by OIE since July 1, 2017, 18 were completed at the time this report was issued. These 18 cases represented 19 possible violations, because in one case, two possible violations were reported (both sexual harassment and retaliation). OIE made the following findings:

- Seven policy violations (37% of investigations)
- Five findings of inappropriate behavior (26% of investigations)
- Seven instances of no policy violation (37% of investigations)
- No cases where the evidence supported a conclusion that the behavior did not occur

18 Investigations: Findings



As mentioned above, eight of the 26 investigations undertaken this year were not yet completed at the time this report was issued. Information about the findings in those cases will be included in next year's report.

b. HR Matters

HR handled three sexual misconduct reports arising under CBAs, all involving sexual harassment. HR concluded that sexual harassment occurred in all three cases and corrective action was imposed consistent with the terms of the applicable CBA.

Corrective Action

When an individual is found to have violated the *Sexual Harassment or Violence in the Community* policy, 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, respondent, and 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 12 OIE investigations this year that resulted in a finding of a violation or inappropriate behavior, the following corrective action was taken:

- In three instances, termination of employment⁵
- In five instances, educational measures
- In one instance, written reprimand
- In one instance, restriction from certain University spaces

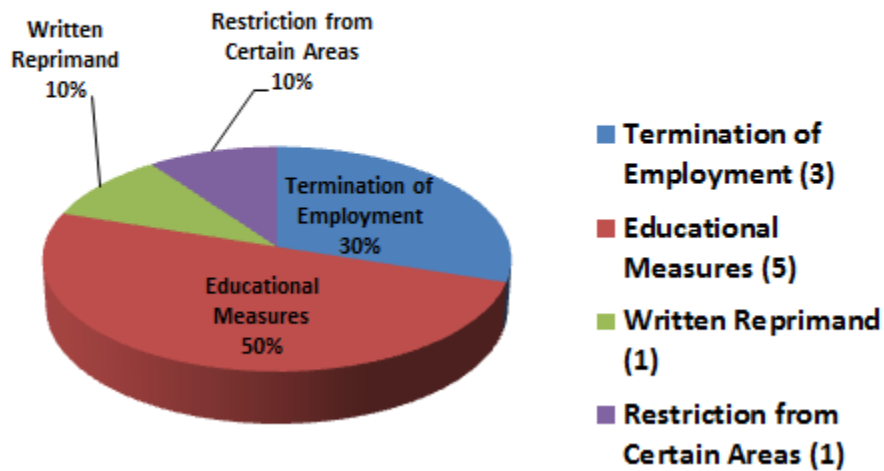
In one recently concluded case in which educational measures have been imposed, additional corrective action is still under consideration.

We note that only 10 corrective actions are listed above. This is because in five instances where the OIE investigation found a policy violation or inappropriate behavior, the respondent resigned. In two instances, the resignation occurred either before the

⁵ In one of these cases, additional related behavior by the respondent after the investigation was completed influenced the decision to terminate the employment relationship.

investigation concluded or before corrective action was imposed. In most of the five instances in which the employee resigned, the employee is not eligible for future University employment. Decisions about rehire status are made on a case-by-case basis.

12 Investigations: Corrective Action

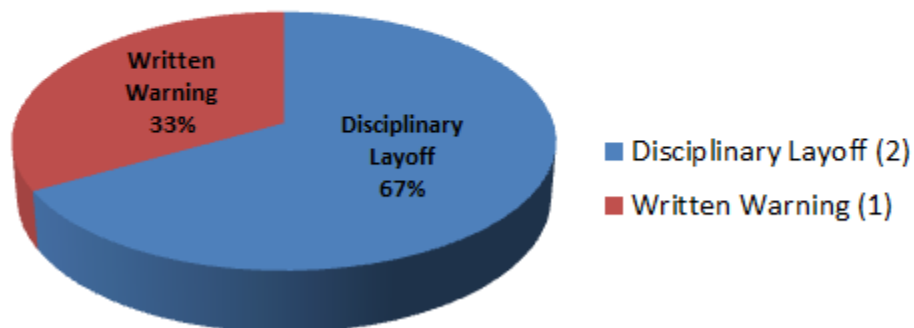


b. HR Matters

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

- In two instances, a temporary disciplinary layoff (unpaid) of one day or more
- In one instance, a written warning

3 HR Matters: Corrective Action



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 was imposed in 10 matters investigated by OIE this year. Two respondents grieved the corrective action imposed. One grievance is completed and the grievance was denied. The second grievance is still pending.

In some more recently decided case that resulted in corrective action, the respondent may still have the option of grieving the corrective action. Information about any such grievances that are lodged will be included in next year's report.

b. Grievance of Corrective Action Arising from HR Matters

As noted above, corrective action was imposed in all three sexual misconduct matters addressed by HR under a CBA this year. One respondent grieved the corrective action imposed through the grievance process set forth in the applicable CBA. The corrective action – disciplinary layoff – was upheld.

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.

The annual report on student sexual misconduct outlines many of the University's in-person and online educational programs. Online programs specifically directed toward faculty and staff include [Haven Training for Faculty and Staff](#) and [Responsibilities at Michigan: Sexual Assault, Intimate Partner Violence, Stalking, and Sexual and Gender-Based Harassment](#).

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](#), SAPAC and OIE. With regard to educational programming by OIE, this year OIE offered 170 in-person educational programs reaching

7,300 members of the University community. Of those, 110 focused on sexual misconduct, reaching 4,912 individuals.

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 new [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