

University of Michigan
Annual Report Regarding Student Sexual & Gender-Based
Misconduct & Other Forms of Interpersonal Violence
July 2018 - June 2019



Office for Institutional Equity
November 11, 2019



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To Members of the University of Michigan Community:

This is the sixth annual report regarding student sexual misconduct issued by the Office for Institutional Equity (OIE). This report covers student sexual misconduct issues that have been addressed by the University from July 1, 2018 through June 30, 2019. OIE is also issuing, separately, its second Annual Report Regarding Institutional Response to Reports of Sexual Harassment by Faculty, Staff and Third Parties which provides similar information about non-student sexual misconduct matters addressed during the same time period.

In September 2018, the United States Court of Appeals for the Sixth Circuit issued a decision in the *Doe v. Baum* (“*Baum*”) lawsuit involving the University. This legally binding decision requires the University, and all public institutions of higher education located within the Sixth Circuit’s jurisdiction, to provide a live hearing including the opportunity for direct cross-examination by a party or an agent acting on the party’s behalf when credibility is at issue and possible sanctions may include suspension or expulsion. As a result of the *Baum* ruling, the University implemented its [Interim Policy and Procedures on Student Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence](#) (“Interim Policy”), effective on January 9, 2019.

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 under the Policy, and the process by which those concerns were addressed, while respecting the privacy of those involved. In particular given the apparent impact of the *Baum* decision and resulting Interim Policy on this year’s data, readers of this report are encouraged to read the explanations that accompany the charts, as they are intended to provide context and explanation that may be helpful.

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

Sincerely,

Elizabeth Seney
Title IX Coordinator and Senior Associate Director, OIE

Contents

Executive Summary	1
Introduction	2
What Conduct is Prohibited?.....	3
The Number of Reports.....	3
How the Reports Were Addressed	6
Resources and Interim Measures	8
Review Panel	9
Investigative Resolutions.....	11
Sanctions.....	14
Appeals	17
Adaptable Resolution.....	17
Reported Issues that Resulted in Other Responses	20
Education and Prevention Measures	21
Conclusion.....	23
Appendix A	24
Appendix B	26

Executive Summary

Pursuant to the [University of Michigan Interim Policy and Procedures on Student Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence](#) (“Interim 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 the University’s efforts to engage the community in education and prevention initiatives. This report reflects actions taken under the Policy in response to reports received by OIE between July 1, 2018 and June 30, 2019. The total number of reports remained fairly consistent from last year, decreasing slightly from 277 to 272.

In looking at reports of specific forms of sexual and gender-based misconduct:

- Reports of sexual assault decreased by about 15% as compared to last year (from 149 to 126)
- Reports of retaliation increased from three reports last year to six this year, and reports of violations of interim measures increased from one to six reports
- Reports of stalking allegations, after a significant increase two years followed by a decrease last year, this year increased by about 38% (from 26 reports to 36, where the number of stalking reports in 2017 was 35)
- Reports of intimate partner violence and reports of sexual harassment both stayed consistent, increasing from 27 to 29 and decreasing from 85 to 84, respectively
- Reports of other types of conduct increased from 7 to 17, while the number was 15 in 2017.
- 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 its scope, such as where the alleged conduct is reported under the Policy but turns out not to involve sexual or gender-based conduct.

In each of the 272 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. This year, the Interim Policy was implemented mid-year in response to a legal ruling, *Doe v. Baum*, and the Investigative Resolution process now includes a hearing with direct cross-examination by the parties. The University also expanded under the Interim Policy the circumstances under which Adaptable Resolution is available to students. This year, the university addressed reports in the following ways:

- The University continues to use a [Review Panel](#). This group, comprised of University faculty and staff, provides advice and counsel to the Title IX Coordinator on whether to investigate a matter in those instances when a Claimant does not wish for the University to conduct an investigation or the potential Claimant’s identity is unknown. This year, the

proportion of reports addressed by the Review Panel compared to total reports decreased somewhat, from about 54% last year to about 45% this year.

- The University saw a significant increase in requests for and use of [Adaptable Resolution](#) this year, which was generally one or fewer in past years, to twelve cases, or about 4% of the matters reported, this year.
- OIE opened sixteen [Investigative Resolutions](#), nine of which have resulted in a finding at the time of this report, three of which are pending a hearing, and four of which the Claimant requested to close prior to the hearing (in three instances opting instead to pursue Adaptable Resolution).
- Of the nine Investigative Resolutions in which findings have been reached, there were five cases in which students were found to have violated the Policy. Three of these were findings made by a Hearing Officer following an investigation and hearing, and two were instances in which the Respondent chose to accept responsibility under the Policy.
- The five students found to have violated the Policy were subject to [Sanctions](#) ranging from educational measures to expulsion.
- 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 its recurrence, as well as other sanctions.

The University continues to engage in extensive prevention and education efforts directed toward students, faculty, and staff related to these issues. A more detailed explanation of the University's education and prevention efforts is set forth below on pages 22-23.

Introduction

The University's [Interim 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 sexual assault, sexual harassment, gender-based harassment, stalking, intimate partner violence, retaliation, and/or 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 sixth annual report under the Policy, and it provides data covering the period from July 1, 2018 to June 30, 2019.¹ As with our previous annual reports, which can be found [here](#), we have endeavored 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:

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

What Conduct is Prohibited?

The Policy prohibits sexual misconduct, which encompasses a wide variety of behavior, from unwanted sexual comments, which may constitute sexual harassment under the Policy, to sexual assault. The Policy also prohibits intimate partner violence, stalking, and gender-based harassment, as well as retaliation and violation of interim measures related to an underlying complaint of sexual assault, stalking, intimate partner violence, sexual harassment, or 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 these concerns are reported as Prohibited Conduct, in some cases, the reported behavior turned out not to relate to this Policy, as further discussed in this report.

The Number of Reports

The University encourages every member of its campus community to report Prohibited Conduct. This year, OIE received 272 reports of Prohibited Conduct.² A report can be made by a person who has experienced, witnessed, heard about or otherwise 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

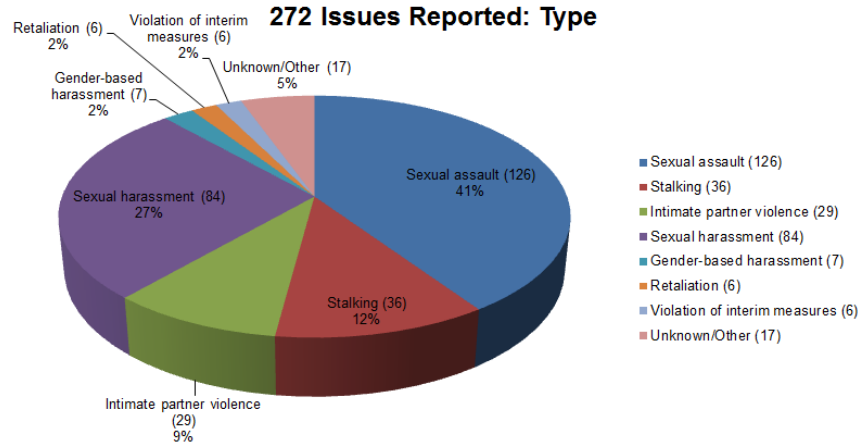
¹ We note that the data contained in this document refers to incidents made known to the Office for Institutional Equity between July 1, 2018 and June 30, 2019, regardless of when the incidents are alleged to have occurred. We further note that the final data set contained in this report was compiled on September 1, 2019. Therefore, the documented status of each case is as of September 1, 2019. For information regarding investigations that were included in the fifth annual report, covering the period between July 1, 2017 and June 30, 2018, please see Appendix B.

² 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 272 reports involved 301 potential policy violations.

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 of Prohibited Conduct, including directly contacting the Title IX Coordinator or using one of [the University's on-line public reporting mechanisms](#), [one of which is available directly via](#) the University of Michigan homepage.

During the past reporting year, from July 1, 2018 through June 30, 2019, 272 matters were reported to OIE, compared to 277 incidents reported during the previous year.³ These numbers are very similar, but it is not typical for the number of reports to decrease, even slightly, from one year to the next. To the contrary, it has been more common for the number of reports to increase over time. There are several factors that may have contributed to the stability of the report numbers from last year to this year. As noted in the introduction to this report, this year the University underwent significant changes to its procedures for investigating and adjudicating matters reported under this Policy. It may be that an otherwise expected increase in reports was impacted by discomfort with the legal requirement that the University's procedures include direct cross-examination, and by related controversy surrounding the modification of procedures. It may be worth noting that the only other year in which the total number of reports has decreased from the previous year was fiscal year 2016, during which time the University was also engaged in significant policy revision efforts, and made those efforts publicly known in order to seek feedback from the community. Finally, it is also notable that last year, the numbers of sexual misconduct reported to OIE, involving students as well as faculty, staff and third parties, increased dramatically from 2017, likely as a result of the #MeToo movement. Thus, it may also be that the number of reports had increased so dramatically in the previous year as to be unlikely to again increase significantly this year.

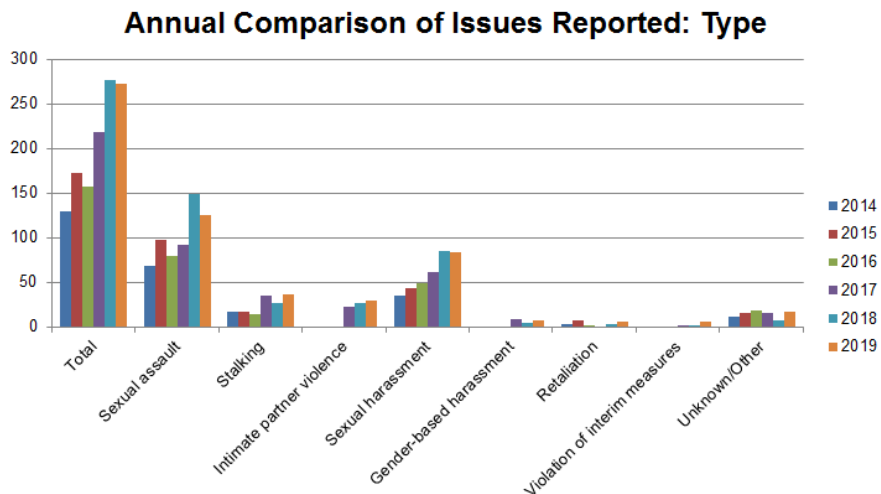
³ It is important to note that this report reflects the total number of Prohibited Conduct concerns that were reported to OIE during the relevant time period, and is likely to differ from the numbers of reported incidents of rape, fondling, stalking, and dating/domestic violence recorded in the University's [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. Accordingly, many of the 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 2019 fiscal year while this year's Annual Security Report reflects the 2018 calendar year).



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As in previous years, the majority of the reports OIE received under the Policy involved allegations of sexual assault and/or sexual harassment, followed by stalking and intimate partner violence. Compared to the reports received last year, there was a decrease in the number of reports involving allegations of sexual assault and the number of reports involving allegations of sexual harassment, although these two types of concerns represented the most and second most reported type of Prohibited Conduct, consistent with past years. Compared to the reports received last year, there was an increase in the number of reports involving allegations of stalking, intimate partner violence, gender-based harassment, retaliation, violation of interim measures, and reports in which the nature of the allegations was unknown or “other,” meaning that the conduct was reported as involving Prohibited Conduct, but the nature of the reported conduct does not constitute sexual misconduct under the Policy. For example, OIE may receive a report under the Policy reporting mechanism that a student believes that they may have been involuntarily drugged by an unknown person, but did not experience any sexual misconduct as a result. This would be counted as “other” to most accurately reflect the number and nature of reports received in connection with this Policy. In such an instance, the student, if known, would be provided information about reporting to law enforcement (and OIE would share the reported information with the University of Michigan Division of Public Safety and Security), as well as other resources available on campus. OIE also tracks such reports and notifies law enforcement and other appropriate entities if a pattern of suspected drugging reports is observed.

⁴ Because some reports involve multiple allegations, the total number of reports of each type of Prohibited Conduct is higher than the total number of reports, 272.



How the Reports Were Addressed

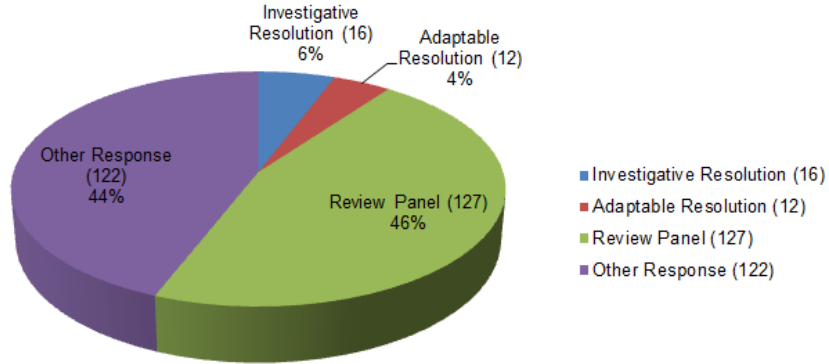
OIE responded to each of the 272 reports to determine appropriate next steps. As discussed more fully below, sixteen reports resulted in an [Investigative Resolution](#),⁵ twelve were addressed through [Adaptable Resolution](#),⁶ 127 were brought to the [Review Panel](#), and 123 resulted in some [other response](#), most commonly because the reports were determined, for a variety of reasons described in more detail below, not to fall within the scope of the Policy. These numbers reflect 277 responses, rather than 272 responses, for several reasons. First, in three reports received this year, an Investigative Resolution was opened at the Claimant’s request, but the Claimant ultimately elected not to proceed through the entirety of the process, either choosing to pursue Adaptable Resolution instead, or electing to have the matter closed entirely. In order to accurately reflect what happened in each matter, these cases are counted as both Investigative Resolution and Adaptable Resolution. Additionally, there were several matters that were reported during the previous year in which the Claimant elected not to pursue an OIE investigation, or to first pursue a criminal investigation, during that year, but elected to open an OIE investigation during this fiscal year. Those matters are included under investigations but not in the 272 matters reported since they were initially reported during fiscal year 2018.

Finally, the six reported instances of retaliation and the six reported violations of interim measures were all reported during fiscal year 2019 in connection with matters that were actively ongoing at the time, in which the underlying allegations were reported during fiscal year 2018. The reports of retaliation and violations of interim measures were addressed in the investigative resolution processes that were pending at the time of those reports, and are therefore reflected in [Appendix B](#), rather than in the numbers above and charts below.

⁵ Under the Policy, the investigative process was referred to as an “investigation.” Because it now involves an investigation followed by a hearing, under the Interim Policy, this process is referred to as an Investigative Resolution.

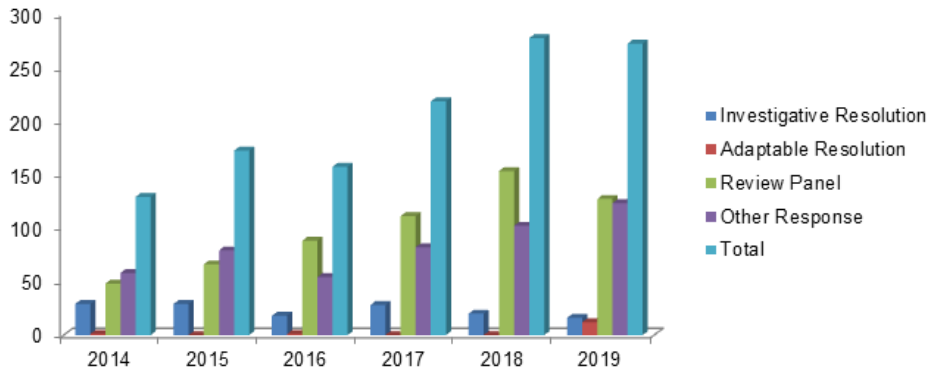
⁶ Under previous policies, this was referred to as “informal resolution” or “alternative resolution.” Under the Interim Policy, it is referred to as Adaptable Resolution.

272 Issues Reported: Response



Most notably, the number of instances in which a Claimant requested, Respondent agreed, and the Title IX Coordinator approved an Adaptable Resolution process increased significantly this year. Multiple factors have likely influenced this increase, as discussed more fully below. In comparison to the previous year, the total number of investigations opened decreased from 20 to 16, though the number completed is lower than sixteen since several Claimants opted to switch to Adaptable Resolution or otherwise close the Investigative Resolution this year. The number of cases considered by the Review Panel decreased and the number of cases that resulted in an Other Response increased.

ANNUAL COMPARISON OF ISSUES REPORTED: RESPONSE



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 any or all of the following: (1) the provision of confidential support and other resources; (2) interim measures designed to support student safety, well-being

and continued access to educational opportunities; (3) consideration by a Review Panel; (4) Adaptable Resolution; (5) Investigative Resolution resulting in findings; (6) sanctions; and/or (7) 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) the nature and amount of information that is available (e.g., whether the Respondent can be identified and is a University of Michigan student, whether the concerns at issue constitute a violation of the Policy, whether prior similar concerns have been reported regarding the same Respondent, etc.) and (2) what action the Claimant (if the Claimant's identity is known)⁷ would like to have taken to address the concern. In all instances, if the Claimant's identity is known, the University will provide the Claimant with information about supportive resources that are available to them, their option to report criminal conduct to law enforcement, and the options that they have under the Policy. 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).

If the Respondent is a University of Michigan student, a Claimant has several options for University action under the Policy. A Claimant may choose to pursue an Investigative Resolution, Adaptable Resolution, neither, or, a Claimant may request another response. Supportive measures are available regardless of whether a Claimant elects to pursue other University action. A Claimant whose concerns involve conduct that may be a violation of the Policy and a crime may choose to pursue University action, a criminal investigation, both, or neither.

The following is an overview of the various actions taken by the University in response to the 272 reports of Prohibited Conduct.

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.

⁷ OIE often receives complaints about incidents from third parties who sometimes are unable or unwilling to identify the parties involved.

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 typically involve action by the University that impacts an individual(s) other than the person requesting the measure, as appropriate under the specific circumstances of the matter. Protective measures 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.

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, instead of, or in addition to reporting their concerns to OIE. 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.

During this past year, interim measures and resources were made available when the identity of one or more of the parties was known. In some cases, the offer of interim measures is not accepted or interim measures may not be 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.

The specific interim measures related to a given matter vary, and 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 parties and the campus community. In some cases, more than one interim measure was implemented.

The interim measures implemented this year included housing modifications, academic separations or other academic accommodations, no contact directives, and restrictions on access to particular on-campus facilities.

Review Panel

Some Prohibited Conduct reports immediately proceed to Investigative Resolution or Adaptable Resolution, but there are instances when an investigation may not be wanted (e.g., a Claimant requests that the University not pursue the matter). In the instances where the Claimant declines to participate and/or asks that the University not take action in response to 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.

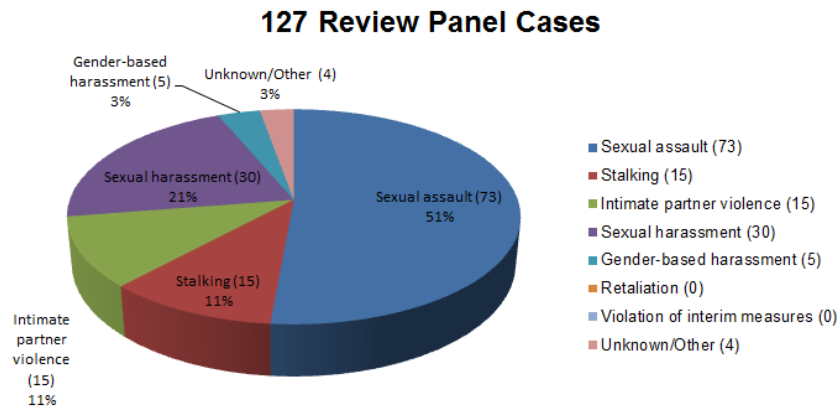
The Title IX Coordinator or Deputy Title IX Coordinator, after receiving and considering the Review Panel's information and advice, determines appropriate next steps. As noted above, even in those instances in which the ultimate decision is not to proceed to investigation, the University may take other action, such as (but not limited to) providing interim measures/resources, providing education and training to the Respondent or a particular organization, 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 and Deputy Title IX Coordinator are guided in these determinations by consideration of factors identified in the Policy, specifically:

- 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 22-24.

During the past year, of the 272 reports, 127 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:⁸



After considering these 127 cases and receiving information and advice from the review panel, the Title IX Coordinator and/or Deputy Title IX Coordinator made the following decisions:

- 122 cases were “closed pending additional information or concerns,” consistent with the Claimant’s request, or in some cases, where the Claimant never responded to OIE’s outreach or their identity was unknown. As in all instances, in each of these matters the Claimant, if identified to OIE, was offered resources and support including interim measures. Identified Claimants were also informed that they may move forward with an investigation at a later time if they wish. As in all instances, if the report involved possible criminal behavior, DPSS was notified.
- In five instances where the Claimant did not pursue an Investigative Resolution or Adaptable Resolution, additional actions (beyond the standard provision of resources and other steps taken in all cases) were taken. These actions included educational measures and referral to other offices for assessment of possible violations of other University policies. As in all instances, these Claimants and Respondents, where applicable, were offered interim measures and other resources and support.

Investigative Resolutions

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. Whether a University [Investigative Resolution](#) can occur depends on the available information and consideration of each individual Claimant’s wishes, balanced

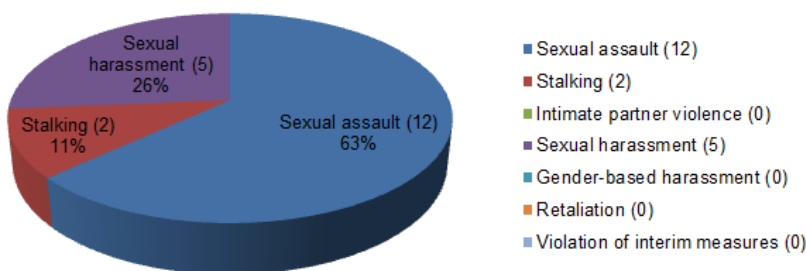
⁸ As noted above, because some reported concerns may involve multiple types of allegations, the 127 cases considered by the review panel involved a total of 142 reported allegations.

with the need to provide for the overall safety of the campus community. In most instances, an Investigative Resolution occurs because behavior that constitutes a potential violation under the Policy has been reported, there is sufficient information available to conduct an Investigative Resolution, and the Claimant wishes to pursue that process. This year, there were sixteen such instances, in which OIE opened an Investigative Resolution.

Of the sixteen Investigative Resolutions undertaken during the past year, twelve concerned allegations of sexual assault. Sexual assault encompasses a broad spectrum of behavior that includes many forms of unwanted sexual touching. In eight of these matters, the allegations involved some form of sexual penetration; in four, the allegations involved other physical sexual touching that did not involve penetration (e.g., groping, etc.).

Since one Investigative Resolution may involve allegations of more than one type of Prohibited Conduct, within the sixteen Investigative Resolutions, OIE investigated nineteen potential policy violations.⁹

16 Investigative Resolutions Opened: 19 Potential Policy Violations



Under the Interim Policy, OIE conducts a thorough and impartial investigation, after which an external, trained Hearing Officer conducts a hearing and subsequently issues a finding. In making a finding, the Hearing Officer 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 obtained in opposition to it.

During this year, possibly due to the change in procedures to include a hearing with direct cross-examination in order to comply with the Sixth Circuit ruling, a higher than usual number of Claimants who opened an Investigative Resolution requested to close the Investigative Resolution prior to the hearing. Some of the cases in which this occurred were cases that were

⁹ Three of the Investigative Resolutions opened involved allegations of both sexual assault and sexual harassment.

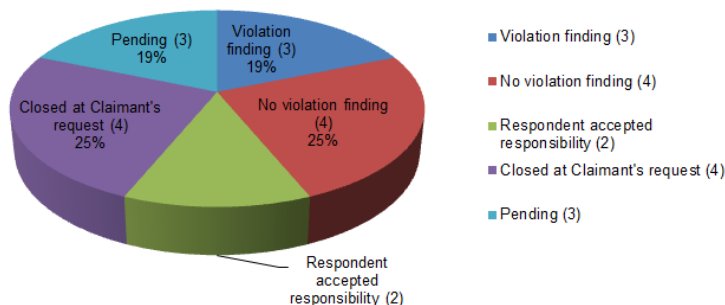
opened before July 1, 2018 (prior to the *Baum* ruling) and those cases are included in Appendix B. Three Claimants involved in the sixteen Investigative Resolutions that were opened this year requested to close the Investigative Resolution prior to a hearing. In each instance, this request was granted and in each case, the Claimant requested, the Title IX Coordinator approved, and the Respondent agreed, to participate in [Adaptable Resolution](#).

Of the sixteen Investigative Resolutions opened during the relevant time period:

- Nine were completed with findings of Violation or No Violation under the Policy.
 - Five involved a finding that the Respondent violated the Policy
 - Three of these findings were made by a Hearing Officer following an investigation and hearing
 - Two Respondents elected to accept responsibility for a Policy violation
 - Four did not involve a finding that the Respondent violated the Policy
- Four were closed at the Claimant’s request
 - Three Claimants elected to pursue Adaptable Resolution after closing the Investigative Resolution
 - One Claimant did not pursue further action through the University
- Three Investigative Resolutions remain open in a pre-hearing outcome phase.

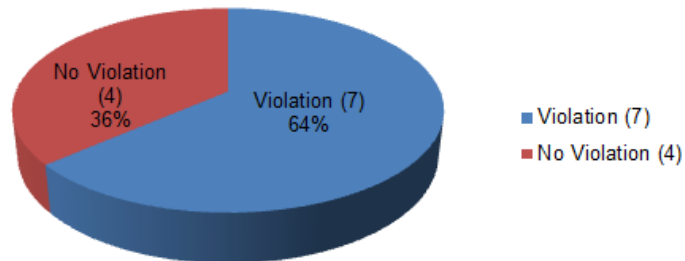
More specific information about the outcome of each Investigative Resolution is available in [Appendix A](#).

**16 Investigative Resolutions Opened:
Outcome**



As mentioned above, in three of the sixteen cases, there were allegations of multiple potential policy violations at issue within each of those three investigations. As a result, the nine investigations that have been completed involve a total of eleven potential Policy violations. Of these, there were seven Policy violations found, and four potential Policy violations that were found not to be supported by the preponderance of the evidence.

Findings Reached on 11 Potential Policy Violations



A finding that there is insufficient evidence to conclude that the Policy was violated 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 these findings, please see [Appendix A](#). Of the nine findings reached this year, one was made under the previous Policy, and in that case, the Respondent elected to accept responsibility. All other findings were made under the Interim Policy, under which the determination was reached by a Hearing Officer following a live hearing in which both parties were offered the opportunity to participate and engage in cross-examination.

After a finding is reached as to whether the Policy has been violated, the Office of Student Conflict Resolution facilitates the sanctioning and appeals processes, as applicable.

Sanctions

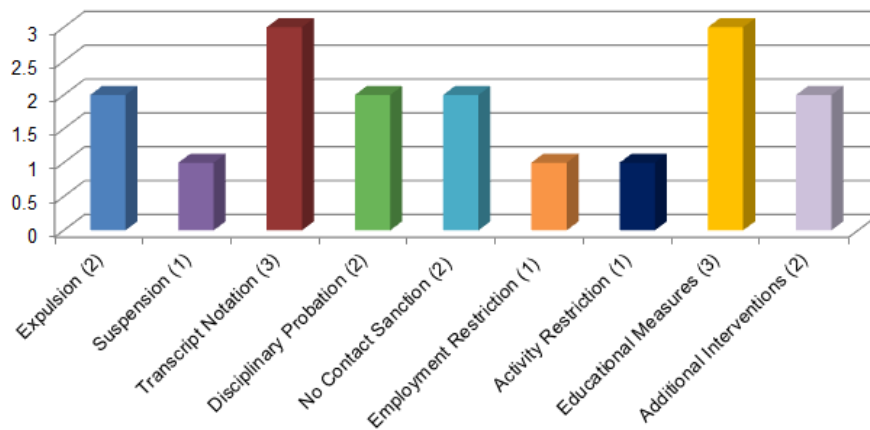
When a Respondent is found to have violated the Policy, the University takes action, through the [Sanctioning Process](#) facilitated by OSCR, designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects. Claimants and Respondents have an opportunity to submit an input statement before sanctions are determined by OSCR.

As noted above, of the nine investigations that were opened and completed to a finding in the past year, there were five cases (representing seven Policy violations) in which a Respondent was found to have violated the Policy. In each of these cases, sanctions were determined.

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 five of the cases where a Respondent was found to have engaged in misconduct under the Policy, more than five 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 table that demonstrates the specific combination of sanctions

issued in each of the five cases where final sanctions have been determined, please see [Appendix A](#).

5 Violation Findings - Sanctions



It is important to note that the chart above represents only sanctions that were imposed this year, and do not necessarily represent the full range of sanctions available when a student is found responsible for engaging in Prohibited Conduct. Likewise, the sanctions identified below include those imposed this year and other common sanctions, but do not represent all possible sanctions that could occur.

Expulsion

An expulsion is a sanction that prohibits the Respondent from ever enrolling in coursework or participating in University programs. This year, two students were expelled under the Policy.

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 was imposed upon a student who was found responsible for violating the Policy.

In general, in cases in which a suspension is imposed, the Respondent is required to complete other sanctions, including educational measures, and may also be subject to a period of disciplinary probation upon returning to the University. 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.

Transcript Notation

A transcript notation often accompanies a sanction of expulsion or suspension. Typically, if a student is suspended under the Policy, the transcript notation is removed after the student has completed the suspension and other sanctions, and returns to the University. A transcript notation that accompanies an expulsion sanction may remain on a student's transcript permanently, or, the student may be eligible to request review of the notation after a designated period of time. This year, a transcript notation sanction was imposed upon each Respondent who was suspended or expelled. In one instance of expulsion, the sanction allowed for the Respondent to request the University to review the notation sanction after a period of several years.

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, during the period of probation, will result in consideration of 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, two Respondents were sanctioned with disciplinary probation, in addition to other sanctions.

No Contact Sanction

Two of the Respondents who have been sanctioned this year are subject to a continuing requirement that they not have contact with the Claimant. A no contact sanction is frequently included in combination with other sanctions, but may not be a necessary or appropriate sanction in all cases.

Employment Restriction

This year, one Respondent was sanctioned with restrictions on particular employment at the University of Michigan while attending the University.

Activity Restriction

This year, one Respondent was sanctioned with a restriction on their ability to participate in a particular activity.

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 complete one-on-one sexual harassment training, engage in wellness coaching, participate in the Science-Based Treatment,

Accountability, and Risk Reduction for Sexual Assault (STARRSA) program, 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 of the three cases in which a Respondent has been sanctioned and not expelled.

Additional Interventions to Remedy Discriminatory Effects

In addition to sanctions imposed directly upon the Respondent, OSCR may identify other interventions that the University can take to remedy the discriminatory effect that the Claimant, and/or other community members, have experienced as a result of the conduct found to have occurred. These may be interventions such as providing education to individuals or groups, restorative justice processes for impacted parties (offered voluntarily), or such other measures as may be appropriate under the circumstances. This year, additional appropriate interventions were identified in two cases.

Appeals

Both the Claimant and the Respondent have the [opportunity to appeal](#) the outcome of an Investigative Resolution and, if there was a finding that the Policy was violated, both parties may also appeal the sanctions. Two of the nine investigations that are completed to the point of a finding have 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 Claimant appealed a finding and one Respondent appealed the sanctions. There may be cases in which one party may appeal the finding while the other appeals the sanctions, though that did not occur this year. In the case where the Claimant appealed the finding, the finding was upheld. In the case where the Respondent appealed the sanctions, the sanctions were upheld.

Adaptable Resolution

[Adaptable Resolution](#) is available as a resolution pathway for students. A case proceeds to Adaptable Resolution when a Claimant requests to pursue Adaptable Resolution, the Title IX Coordinator approves Adaptable Resolution as an appropriate pathway in the particular matter, and the Respondent also agrees to participate in Adaptable Resolution.

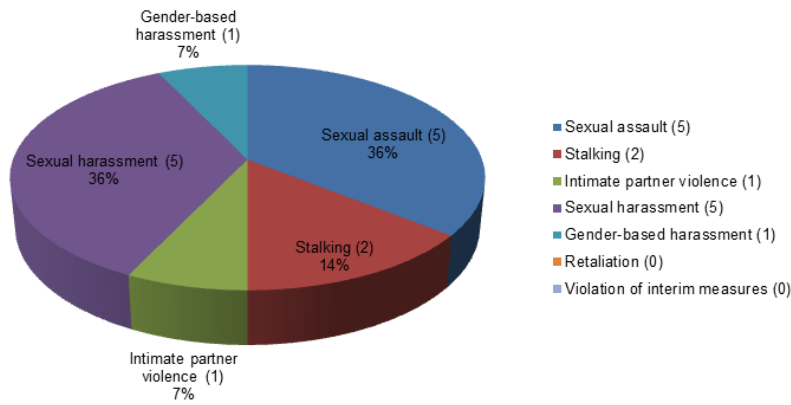
Adaptable Resolution is a voluntary, remedies based, structured interaction between or among affected parties. While the purpose of an Investigative Resolution is to make an evidence-based determination as to whether a student Respondent has violated the Policy, Adaptable Resolution balances support and accountability without formal disciplinary action against a Respondent, and is designed to allow a Respondent to acknowledge harm and accept responsibility for repairing

harm (to the extent possible) experienced by the Claimant and/or the University community. Although Adaptable Resolution does not result in formal disciplinary action, the parties may, through the process they select and agree upon, ultimately reach an agreement that may require certain actions of the Respondent. In all cases, Adaptable Resolution is voluntary, must be approved by the Title IX Coordinator, and either party or the Title IX Coordinator has the ability to revoke approval or agreement to participate at any time during the process. If a party withdraws from Adaptable Resolution, an Investigative Resolution is still available if the concern involves an alleged violation of the Policy.

This year, there were twelve cases in which the parties elected, and the Title IX Coordinator approved, to proceed to Adaptable Resolution to resolve the complaint in lieu of an Investigative Resolution. As noted above, in three instances, Claimants elected to close a pending Investigative Resolution and pursue Adaptable Resolution. This is the first year in which any students have elected to switch from the investigative pathway to the adaptable pathway mid-process, and the twelve cases that proceeded to Adaptable Resolution this year represent a significant increase in use of Adaptable Resolution from any previous year.

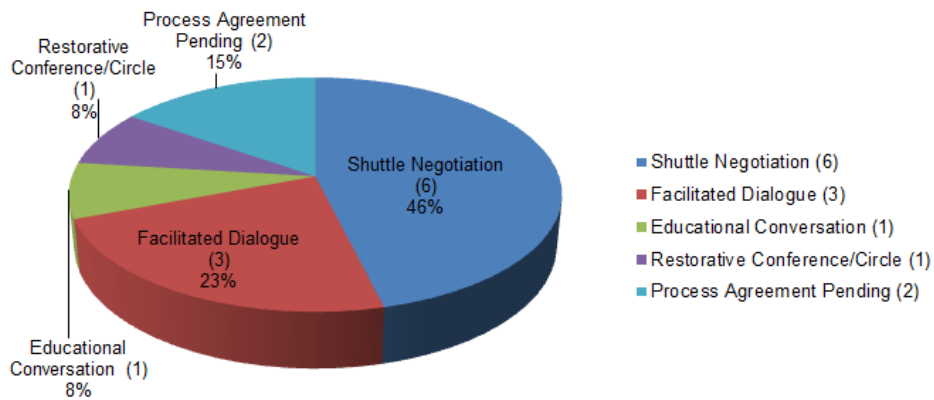
There may be several reasons for this increase. First, with the implementation of the Interim Policy, OIE began partnering with OSCR Case Managers for initial meetings with students, and these meetings include more detailed explanations of the Adaptable Resolution option, for students who are interested in hearing about the option, than was previously common. Second, some Claimants who wanted University action taken in response to their concerns also expressed hesitation about pursuing an Investigative Resolution in light of the addition of a hearing and direct cross-examination under the Interim Policy. Finally, under previous iterations of the Policy, the University included an automatic limitation on the use of Adaptable Resolution based on certain types of allegations. For example, under the 2018 Policy, Adaptable Resolution was prohibited in matters involving allegations of penetrative sexual assault. Under the Interim Policy, there are no blanket allegation-based restrictions on the use of Adaptable Resolution for students who wish to make use of this option. Consistent with the University's strong commitment to providing students with options, and honoring their choices to the extent possible, the Interim Policy requires only that the parties each voluntarily choose whether to participate in Adaptable Resolution (with the understanding that they can withdraw from participation and end the process at any time) and that the Title IX Coordinator approve use of the process for the particular matter.

12 Adaptable Resolutions



There are a variety of processes available through the Adaptable Resolution pathway, allowing parties to voluntarily agree on the process that best meets their needs and interests. In particular, Adaptable Resolution may include a Facilitated Dialogue involving the Claimant, Respondent, and/or other community members; a Shuttle Negotiation involving the Claimant, Respondent, and/or other participants; a Restorative Circle or Conference Process, which may also include other community members in addition to the parties; or a Circle of Accountability, involving the Respondent and particular University faculty or staff to provide accountability, structured support, and to develop a learning plan.

12 Adaptable Resolutions Opened: Process Used



The parties may reach an agreement via the Adaptable Resolution process, which may be simply an acknowledgment that they agree the issue has been resolved, or may contain provisions with which one or both parties (most typically the Respondent) will comply. The agreement must be approved by the Title IX Coordinator. Once parties have reached consensus as to the terms of the agreement and the Title IX Coordinator has approved the agreement, the parties no longer have the option of returning Investigative Resolution, and failure to comply with the agreement may result in disciplinary action.

If the parties do not reach an agreement, the matter is referred back to the Title IX Coordinator for further action, which could include initiation of an Investigative Resolution, consideration by the Review Panel, or some other response. This has not occurred in any Adaptable Resolution processes this year. So far, eight of the twelve cases have resulted in an agreement between the parties, while four are pending.

Reported Issues that Resulted in Other Responses

As described in this report, Investigative Resolution and Adaptable Resolution are the primary resolution pathways under the Interim Policy, and reports in which the Claimant is unidentified or chooses not to pursue any University action are considered by the Review Panel. In some instances, however, there may be other actions that are requested or otherwise appropriate, and in many instances, OIE receives reports of Prohibited Conduct that, upon review, are determined not to be actionable under the Policy. This year, of the 272 reported incidents, 123 were addressed via a response that did not involve an Investigative Resolution, Adaptable Resolution, or consideration by the Review Panel. This occurs when other action outside of those processes is requested by the Claimant and determined to be appropriate, or, in most of these cases, when other action is more appropriate where cases were reported under the Policy but ultimately did not constitute a potential violation of the Policy.

There are two reasons why a concern may not constitute a potential violation of the Policy: lack of affiliation with the University (e.g., most commonly, the Respondent is not affiliated with the University and therefore not subject to University policies); or, the alleged conduct does not fall within the Prohibited Conduct in this Policy. The majority of these matters did not constitute a potential violation of the Policy because the Respondent was not affiliated with the University of Michigan. In such cases, an Investigative Resolution is not available because a person who is not affiliated with the University is not subject to University policy. In such cases, the University still offers resources and supportive measures to the Claimant (if their identity is known), notifies DPSS if the concern involves a potential crime, and offers assistance reporting to police or, if the Respondent is affiliated with another institution, such as a student at another university, reporting to that institution.

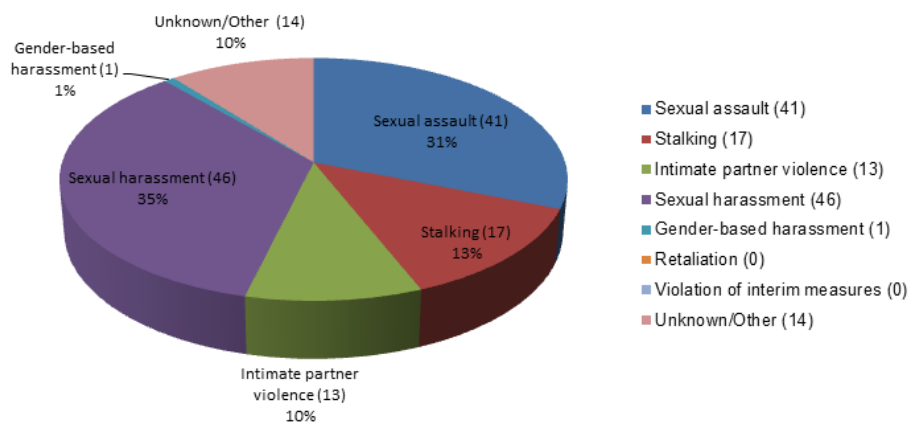
In other instances, a concern may be reported of conduct that either turns out not to involve an allegation of sexual or gender-based conduct, or the concern may involve an inappropriate comment or other single incident that does not constitute Prohibited Conduct under the Policy. For example, a third party may report that they believe an individual has experienced sexual misconduct, and when contacted, that individual says that they have not. More commonly, behavior is reported that may be inappropriate or cause an individual discomfort, but does not necessarily constitute a Policy violation. For example, a report that a student has engaged in a behavior that may be inappropriate but not ultimately constitute a potential violation of the Policy – a small number of unwelcome sexualized comments, for example – may not be appropriate for an Investigative Resolution, and may be addressed in some way even if students

do not elect to pursue Adaptable Resolution. [Such reports may be addressed in a variety of ways.](#) For example, OIE may work with OSCR, Housing or other appropriate office to provide education and resource information tailored to addressing conduct of concern and supporting all parties involved.

In some instances, behavior may appear to involve sexual or gender-based conduct and may also appear to involve other issues, such as harassment based on race, religion, or another protected class. In these cases, OIE and OSCR coordinate to determine the most appropriate forum for addressing the concerns. If the determination is that the concerns that are not sexual or gender-based in nature predominate and the follow up is conduct by OSCR, that follow up would be considered an “Other Response” for purposes of this report.

Of these 123 reports, most of which 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.¹⁰ The reason that an allegation of sexual assault would be determined not to constitute a violation of the Policy is the lack of affiliation with the University, typically meaning that the Respondent is not a UM student, faculty, or staff member. Reports characterized as involving sexual harassment may involve unaffiliated parties, and/or, the concerns may be reported as possible sexual harassment but not constitute a potential sexual harassment violation as appropriately defined in the Policy.

122 Reports Addressed by Other Response



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.

¹⁰ As noted above, because some reported concerns may involve multiple types of allegations, the 122 cases that resulted in other responses involved a total of 132 reported allegations.

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. As in past years, all [incoming undergraduate, graduate, and professional](#) students are provided *Sexual Assault Prevention for Undergraduates* or *Sexual Assault Prevention for Graduate Students*, interactive on-line programs designed to help students understand the many aspects of sexual misconduct. Topics covered include the Prohibited Conduct included in the Policy, common myths about sexual assault, the definition of consent, the link between sexual assault and alcohol, and bystander intervention, and campus resources. Incoming undergraduate students also complete Alcohol.edu which provides information about the impact of alcohol on sexual decision-making. Additionally, all [continuing students](#) are also sent an online course to refresh their understanding of campus policies, expectations, and resources on campus.

The University also uses in-person training. During orientation, first-year students attend the [University of Michigan Educational Theatre Company's](#) presentation of *Stand Up, Step In, Speak Out*. This program includes a sketch regarding campus sexual assault. It addresses myths around rape culture, students' responses 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, the [First Year Experience](#) office provides a variety of programming and educational initiatives for all first year and transfer undergraduate students. This includes [Relationship Remix](#), a required in-person educational program collaboratively presented by SAPAC, [Wolverine Wellness](#), and First Year Experience. The program consists of small group 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 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 annual in-person training that addresses Prohibited Conduct as well as hazing prevention and bystander intervention.

During the past year, Rackham Graduate School and the College of Literature, Science, and the Arts collaborated with SAPAC and OIE to pilot an in-person training program for graduate students. That program is being expanded to be offered broadly for graduate students in 2020.

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. Recently this program has been expanded to transportation services, including Lyft and Boober Tours. 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 conducted by OIE, Office of the General Counsel, DPSS, OSCR, SAPAC and others that are geared toward specific groups, for example, Residence Education staff, UHS care providers, and summer camp counselors.

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.

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:

Elizabeth Seney
Title IX Coordinator and Senior Associate Director, OIE
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1009 Greene Street, Ann Arbor, MI 48109-1432
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Appendix A

	Type	Finding	Final Sanctions	Appeal	Outcome of Appeal
1	Sexual assault (penetration)	No violation	Not applicable	Claimant appealed the finding	Finding upheld
2	Sexual assault (penetration)	No violation	Pending	Pending	Pending
3	Sexual assault (penetration)	Violation	Expulsion, Transcript notation	None	Not applicable
4	Sexual assault (penetration)	No violation	Pending	Pending	Pending
5	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
6	Sexual assault (penetration)	Closed at Claimant's request	Not applicable	Not applicable	Not applicable
7	Sexual assault (penetration)	Closed at Claimant's request	Not applicable	Not applicable	Not applicable
8	Sexual assault (penetration)	Pending	Pending	Pending	Pending
9	Sexual assault (no penetration)	Pending	Pending	Pending	Pending
	Sexual harassment	Pending	Pending	Pending	Pending
10	Sexual assault (no penetration)	Violation	Suspension (one year); No contact; activity/housing restriction; educational measures	None	Not applicable
	Sexual harassment	Violation			
11	Sexual assault (no penetration)	Closed at Claimant's request	Not applicable	Not applicable	Not applicable
12	Sexual assault (no penetration)	Violation	Disciplinary probation (until graduation); Employment restriction; No contact; educational measures	None	Not applicable
	Sexual harassment	Violation			
13	Stalking	Violation	Expulsion, transcript notation with opportunity to request removal of notation after three years	Respondent appealed the sanctions	Sanctions upheld
14	Stalking	Pending	Pending	Pending	Pending
15	Sexual harassment	Violation	Disciplinary probation; educational measures	None	Not applicable

	Type	Finding	Final Sanctions	Appeal	Outcome of Appeal
16	Sexual harassment	Closed at Claimant's request	Not applicable	Not applicable	Not applicable

Appendix B¹¹

	Type	Finding	Final Sanctions ¹²	Appeal	Outcome of Appeal
1	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
2	<i>Sexual assault (penetration)</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i>
3	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
4	Sexual assault (penetration)	No violation	Not applicable	None	Not applicable
5	<i>Sexual assault (penetration)</i> <i>Sexual harassment</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i> <i>Not applicable (investigative resolution closed at Claimant's request)</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i> <i>Not applicable (investigative resolution closed at Claimant's request)</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i> <i>Not applicable (investigative resolution closed at Claimant's request)</i>	<i>Not applicable (investigative resolution closed at Claimant's request)</i> <i>Not applicable (investigative resolution closed at Claimant's request)</i>
6	<i>Sexual assault (penetration)</i>	<i>Pending</i>	<i>Pending</i>	<i>Pending</i>	<i>Pending</i>
7	<i>Sexual assault (penetration)</i> <i>Sexual harassment</i>	<i>No violation</i> <i>No violation</i>	<i>Not applicable</i> <i>Not applicable</i>	<i>Claimant appealed the finding</i> <i>Claimant appealed the finding</i>	<i>Finding upheld</i> <i>Finding upheld</i>
8	<i>Sexual assault (penetration) (2)</i> <i>Sexual harassment</i> <i>Retaliation (3)</i> <i>Violation of interim Measures (3)</i>	<i>No violation (2)</i> <i>No violation</i> <i>No violation (3)</i> <i>No violation</i>	<i>Pending</i> <i>Pending</i> <i>Pending</i> <i>Pending</i>	<i>Pending</i> <i>Pending</i> <i>Pending</i> <i>Pending</i>	<i>Pending</i> <i>Pending</i> <i>Pending</i> <i>Pending</i>

¹¹ Cases in italics were opened and/or completed under the Interim Policy.

¹² This data reflects the final sanctions imposed after both the sanctioning and appeals processes are complete.

	Type	Finding	Final Sanctions ¹²	Appeal	Outcome of Appeal
9	Stalking	Violation	Disciplinary probation; no contact; academic separation; educational measures	None	Not applicable
	Sexual harassment	No violation		None	Not applicable
10	<i>Stalking</i>	<i>Violation</i>	<i>Suspension; transcript notation during suspension; no contact; educational measures;</i>	<i>None</i>	<i>Not applicable</i>
	<i>Sexual harassment</i>	<i>Violation</i>		<i>None</i>	<i>Not applicable</i>
	<i>Violation of interim measures (3)</i>	<i>Violation (1), No violation (2)</i>		<i>None</i>	<i>Not applicable</i>
11	Intimate partner violence	Violation	Suspension; disciplinary probation; no contact; housing restriction; employment restriction; educational measures	None	Not applicable
12	Sexual harassment	No violation	Not applicable	None	Not applicable
13	Sexual harassment	No violation	Not applicable	Claimant appealed the finding	Finding upheld
14	Sexual harassment	Violation	Disciplinary probation; educational measures	None	Not applicable
15	Sexual harassment	No violation	Not applicable	None	Not applicable
16	Sexual harassment	No violation	Not applicable	None	Not applicable
17	<i>Sexual harassment</i>	<i>No violation</i>	<i>Not applicable</i>	<i>Claimant appealed the finding</i>	<i>Finding upheld</i>
	<i>Sexual harassment</i>	<i>No violation</i>	<i>Not applicable</i>	<i>None</i>	<i>Not applicable</i>
18	Sexual harassment	No violation	Not applicable	None	Not applicable
19	Sexual harassment	No violation	Not applicable	None	Not applicable
20	Gender-based harassment	No violation	Not applicable	None	Not applicable