



**EQUITY,
CIVIL RIGHTS
& TITLE IX**

Annual Report Regarding Institutional Response to Reports of Sexual and Gender- Based Misconduct

Amended June 2022

July 1, 2020 - June 30, 2021

A NOTE FROM THE TITLE IX COORDINATOR

March 18, 2022

Members of the University of Michigan Community:

The past few years have been impactful for the University of Michigan community to an historical, unprecedented extent with respect to sexual and gender-based misconduct. I cannot open this report without acknowledging the pain that our community has collectively experienced, and moreso, the trauma experienced by many members of our University community as a result of sexual misconduct. Whether it is the courageously told stories of survivors of abuse, or even this report documenting the number and types of reports ECRT received during fiscal year 2021 and describing the University's response, I want to acknowledge that it can feel overwhelming, and can be painful, to know that our University is not exempt from the prevalence of sexual and gender-based misconduct we know persists across the globe.

I am appreciative to the many members of the University community who have made their voices heard on this and so many other issues, and I am enthusiastic about the creation of the Equity, Civil Rights and Title IX Office, and other initiatives that bring more opportunities to engage directly with members of our shared community. During the past year, ECRT started the University's first Title IX Coordinator Advisory Committee. Dozens of committed faculty, staff, undergraduate and graduate students have committed their time to sharing feedback and joining in tackling complicated issues around sexual and gender-based misconduct, and I have found the committee's feedback extremely valuable. More recently, I have begun hosting virtual Title IX Coordinator office hours to provide an easily accessible opportunity to connect with community members. These times can be used to provide feedback or ask questions about the [Policy on Sexual and Gender-Based Misconduct](#) or related matters, or to make a report directly.

Likewise, I hope that this report is useful in building a broad understanding of how the University responds to concerns of sexual and gender-based misconduct, including the numbers and types of reports ECRT receives; how those concerns are addressed; and why. I view this report as more than a compilation of statistics; rather, I believe this is an important part of the University's efforts to address sexual and gender-based misconduct. Some of my highest priorities as ECRT Sexual and Gender-Based Misconduct Director and Title IX Coordinator are:

- encouraging and facilitating reporting of sexual and gender-based misconduct; and,
- providing all members of our community with access to information that allows for informed decision-making with respect to concerns of sexual and gender-based misconduct.

In service of these goals, I believe it is critical for the community to have ready access to comprehensive, accurate information about the University's procedures for addressing sexual and gender-based misconduct, and specifically about the institutional response to matters previously reported. This year's report contains much of the same data that past reports have included, but also highlights some of the information that is most commonly asked about, discussed, or, in some cases, most commonly misunderstood.

A NOTE FROM THE TITLE IX COORDINATOR

At the same time, it remains critical that ECRT appropriately protect the privacy of the individuals who have interacted with ECRT, whether as reporter, complainant, respondent, witness, or any other way, and with the lone exception of Dr. Robert Anderson, the information contained in this report is shared via aggregate data and the appendices detailing specific investigations do not contain names, but identify only the student/faculty/staff affiliation of the respondent. This is intentional and consistent with ECRT's commitment not to allow privacy to be compromised even as we remain committed to transparency.

It is my sincere hope that this report not only provides information, but also serves as an invitation to engage with me and with others in ECRT, to provide feedback, ask questions, or raise concerns. I welcome any feedback, whether specific to this report or regarding the [Policy and related Procedures](#). I also hope that the information in this report contributes to meaningful awareness of these issues and of the options and resources available to address such concerns and support members of our community. Ultimately, I hope that this information encourages and facilitates reporting of concerns and helps members of our community to feel comfortable seeking assistance, whether through ECRT, confidential or non-confidential resources, the University of Michigan Police Department - or any combination of these. Amidst all of the challenges we have faced as a community, there are many people and offices available at this institution who are here to help.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Seney". The signature is fluid and cursive, with a long horizontal stroke at the end.

Elizabeth Seney
Director, Sexual and Gender-Based Misconduct,
and Title IX Coordinator

June 2022 Amendment: This report is amended as of June 2022. The amendment corrects typographical errors, and the inadvertent inclusion of three cases involved in the Dearborn, not Ann Arbor, campus.

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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 ("Policy"), the Equity, Civil Rights and Title IX Office) produces an annual report detailing actions taken by the University to address issues reported under the Interim Policy. The Interim Policy was replaced by the Policy on Sexual and Gender-Based Misconduct on October 1, 2021. This report reflects actions taken under the Policy in response to reports received by ECRT between July 1, 2020 and June 30, 2021. During that period:

- ECRT received 527 reports of possible sexual and gender-based misconduct, fourteen of which met the definition and technical requirements of sexual harassment under Title IX
- In 116 of these reports, the identity of the complainant was not reported to ECRT, limiting ECRT's ability to follow up with the complainant directly or conduct an investigation
- Three gender-based concerns were raised regarding University policies or practices, or a variety of aspects of a particular unit such that there was no specific identified respondent;
- 134 reports involved the alleged conduct of a student and were addressed under the Student Procedures;
- 390 were addressed under the Employee Procedures, which pertain to faculty, staff, and third parties (189 involved staff respondents, 66 involved faculty respondents, 92 involved alleged conduct by individuals who are not faculty, staff, or students at the University of Michigan, and 43 reports did not contain sufficient information to ascertain whether and what affiliation the respondent may have with UM).

Many of the reports involved multiple types of allegations, and in total:

- 119 reports involved allegations of Sexual Assault
- 16 reports involved allegations of Sexual Exploitation
- 213 reports involved allegations of Sexual Harassment
- 63 reports involved allegations of Sex and Gender-Based Harassment
- 44 reports involved allegations of Sex and/or Gender-Based Stalking
- 44 reports involved allegations of Intimate Partner Violence
- 81 reports involved allegations of Sex and Gender-Based Discrimination
- 23 reports involved allegations of Retaliation
- 3 reports involved allegations of Violation of Supportive Measures
- 31 reports involved allegations of unspecified sexual or gender-based misconduct without sufficient information to identify the potential Policy violations.

EXECUTIVE SUMMARY

ECRT responded to each report it received. In all instances where it was possible to do so (i.e., the complainant's identity was shared with ECRT), ECRT provided the complainant with information about how to file a formal complaint, how to report to law enforcement, the availability of supportive measures, and additional resources the University offers. A complainant may request an investigative or adaptable resolution by filing a formal complaint, and supportive measures and other resources are available regardless of whether they want a formal resolution process. In some instances where the complainant does not want a formal resolution process, the University nonetheless needs to take further action to address the concerns, for example, where a faculty or staff member is alleged to have engaged in misconduct. Of the sexual and gender-based misconduct matters reported to ECRT during FY2021:

- ECRT conducted 59 investigations, forty-six of which were initiated by a Formal Complaint submitted by the complainant(s); in the remaining thirteen, the complainant(s) did not file a formal complaint to request an investigation but ECRT determined that a formal investigation process was necessary to ensure the allegations were fully and appropriately addressed, and there was sufficient information available to conduct an investigation
- Fourteen of the investigations were conducted under the Interim Student Procedures; 12 were conducted under the Interim Employee Procedures Title IX Misconduct Process and 33 were conducted under the Interim Employee Procedures Sexual and Gender-Based Misconduct Process (not involving alleged Title IX Misconduct)
- In eight matters involving student respondents, the Complainant requested, Respondent agreed to, and Title IX Coordinator approved, the use of adaptable resolution

The remaining matters were addressed through a variety of steps taken to stop misconduct, prevent future misconduct, and remedy the effects of misconduct on all who may have experienced or been impacted by it. These steps included supportive measures, contact restrictions, and individual or group educational efforts. In each matter in which a formal resolution process (investigation or adaptable resolution) did not occur, one or more of the following was true:

- The complainant's identity was unknown
- The respondent's identity was unknown
- The respondent was affiliated with the University
- The alleged conduct did not constitute a potential violation of the Interim Policy and was therefore more appropriately addressed in another manner (e.g., through education)
- The complainant requested ECRT not to open an investigation or adaptable resolution and indicated they would not participate in a hearing where a hearing is required by law
- The complainant requested ECRT not to open an investigation or adaptable resolution and there was insufficient information for ECRT to conduct a thorough investigation
- The complainant requested ECRT not to open an investigation or adaptable resolution, the respondent was not an employee, there were no other reports of misconduct involving the respondent, and there were no compelling individual or safety community concerns overriding the complainant's request

ECRT

What is ECRT?

The Equity, Civil Rights and Title IX Office, or ECRT, is an office where University students, staff, faculty, and third parties can go if they have concerns about discrimination, including sexual and gender-based misconduct. Patients can also seek assistance from ECRT with respect to sexual and gender-based misconduct concerns.

The former Office for Institutional Equity (“OIE”) was replaced by and subsumed into ECRT in order to expand services and resources ECRT can offer to the campus community.

In particular, ECRT aims to increase and coordinate prevention efforts and to provide more robust, timely, and supportive communications with any member of the campus community who may interact with ECRT.

For consistency and clarity, in this report the office will generally be referred to as “ECRT” including with respect to actions taken prior to the ECRT transition.



THE POLICY

What Is the Policy on Sexual and Gender-Based Misconduct?

The Policy on Sexual and Gender-Based Misconduct (“the Policy”):

- Prohibits various forms of sexual and gender-based misconduct (collectively, Prohibited Conduct)
 - Sexual Assault
 - Sexual Exploitation
 - Sexual Harassment
 - Gender-Based Harassment
 - Sex and/or Gender-Based Stalking
 - Intimate Partner Violence
 - Sex and Gender-Based Discrimination
 - Retaliation
 - Violation of Supportive Measures
 - Title IX Misconduct
- Designates Individuals with Reporting Obligations (IROs) and describes reporting obligations
- Provides information about how to report concerns
- Designates Confidential Resources and identifies Non-Confidential Resources
- Is accompanied by Student Procedures and Employee Procedures that identify and explain the processes by which concerns of Prohibited Conduct are addressed

Effective October 1, 2021, the Policy and its related procedures replaced the Interim Policy on Sexual and Gender-Based Misconduct (“the Interim Policy”) and related procedures (“the Interim Student Procedures” and “the Interim Employee Procedures”). The Interim Policy and Interim Procedures were effective between August 14, 2020 and September 30, 2021; accordingly, most of the matters included in this report were addressed under the Interim Policy and its related Interim Student Procedures and Interim Employee Procedures, as applicable.

For full definitions in place during the relevant time period, please see Appendix A. Current definitions effective October 1, 2021 are contained within the Policy.

THE POLICY

Why Does The University Have This Policy?

The University of Michigan has had policies prohibiting sex discrimination and sexual misconduct for decades, for a variety of reasons. The Policy:

- Is one part of building and maintaining a safe and equitable environment for all of its community members (including applicants, visitors, and patients);
- Identifies institutional values and conduct expectations;
- Is a mechanism to hold community members accountable when unacceptable behavior occurs; and
- Is required by various federal and state laws;
 - For example, Title IX is a federal civil rights and education law that prohibits sex discrimination in educational institutions receiving federal funds;
 - Title VII of the Civil Rights Act, the Violence Against Women Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) the Michigan Elliott-Larsen Civil Rights Act, and even the State of Michigan higher education budget law (P.A. 86 of 2021), also include requirements for how the University addresses sexual and gender-based misconduct.

RESOURCES FOR SUPPORT

What Support Is Available At the University?

- Designated Confidential Resources are available within the community to offer supportive and other services, including consultation about reporting options on a confidential basis
 - Confidential Resources may not share information disclosed to them in that context except with permission of the person who shared the information or in limited health and safety-related exceptions
 - These include the Sexual Assault Prevention and Awareness Center, Counseling and Psychological Services, Faculty and Staff Counseling and Consultation Office, the Office of Counseling and Workplace Resilience, and others
- Non-Confidential Resources are also available to offer supportive and other services, but are not Confidential and some employees in these offices may be obligated to report (see page 10)
- The Policy identifies a variety of Confidential and Non-confidential Resources available to members of the University community



RESOURCES FOR SUPPORT

Supportive Measures

Supportive measures are available to all parties, regardless of whether the matter is reported, a Formal Complaint is filed, or the party participates in a resolution process.

Supportive measures are:

- Individualized services, accommodations, other assistance
- Provided by the University
- Free of charge
- Available to all parties
- Available regardless of whether a matter is reported
- Available with or without a Formal Complaint
- Not punitive or disciplinary in nature
- Not an unreasonable burden upon another party
- Designed to restore or preserve equal access to the University's Programs and Activities, protect the safety of all parties and the University's educational environment, and/or deter Prohibited Conduct.

RESOURCES FOR SUPPORT

Supportive Measures

The table below displays some examples of Supportive Measures. This table is not exhaustive, and as Supportive Measures are individualized, parties are encouraged to identify any Supportive Measures needs they may have to ECRT, or an applicable Confidential Resource (SAPAC, FASCCO, OCWR) to explore what measures may be available to meet their needs. Additionally, a particular Supportive Measure may not be appropriate in all instances, and Supportive Measures can be implemented in combination.

TYPE OF SUPPORTIVE MEASURE	EXAMPLES OF SUPPORTIVE MEASURE
Academic	Ability to: re-schedule classes, exams, and assignments; transfer course sections; modify an academic schedule; or withdraw from a class; leaves of absence
University Employment	Modification of work schedule or location or job assignment; leaves of absence
Housing	Changes in University Housing location; provision of temporary emergency University housing, assistance securing temporary off-campus housing or finding other off-campus housing
Counseling Services	On-campus counseling services (CAPS, SAPAC, FASCCO, OCWR, etc.); assistance connecting to community-based counseling services
Security	Increased monitoring of particular areas of campus; an escort to ensure safe movement on campus; temporarily limiting an individual's access to certain University facilities or activities, as appropriate
Medical	Assistance connecting to community-based medical services; reassignment of patient to another provider
Contact	Contact restriction through ECRT (typically mutual); assistance seeking a personal protection order through the court system; an instruction from DPSS to cease contact with another individual

REPORTING CONCERNS



How Can Someone Report Concerns?

Concerns regarding possible sexual and gender-based misconduct are reported to the Title IX Coordinator and Sexual and Gender-Based Misconduct Director in the Equity, Civil Rights and Title IX Office:

- Online form:
<https://sexualmisconduct.umich.edu/reporting-process/>
- Email: ecrtoffice@umich.edu
- Phone: (734) 763-0235
- In person: 2072
Administrative Services
Building, 1009 Greene Street,
Ann Arbor, MI 48109

- Anyone, including:
- A person who believes they may have experienced Prohibited Conduct (Complainant)
- A University Individual with Reporting Obligations (IRO)
- A person who has information about possible Prohibited Conduct, even if they are not directly involved

The University encourages reporting of information regarding concerns of Prohibited Conduct, and encourages reporting as soon as possible.

Who Can Report Concerns?

REPORTING REQUIREMENTS

Who Is Required To Report Concerns?

While everyone is encouraged to report, many members of the University community are required to report concerns of Prohibited Conduct to ECRT. These are called **Individuals with Reporting Obligations**, or IROs, and the roles that carry this reporting obligation are outlined in the [Policy](#).

All University faculty and staff are all encouraged to complete the [Reporting Sexual and Gender-Based Misconduct training module](#) in order to:

- Determine whether they are an IRO;
- Learn what conduct is Prohibited under the Policy;
- Understand how to respond appropriately, whether or not they have reporting obligations;
- Consider reasons to report even if not obligated to do so; and
- Identify how to report concerns

Live trainings are also provided to various University employees on an annual basis (e.g., Hall Directors, Resident Advisors, and other Housing/Residential Education staff; Athletics leadership, coaching, operations, training, advising, counseling, medical, and equipment staff, etc.). Academic departments and non-academic units may also receive live training on a regular or ad hoc basis as coordinated by ECRT and by the applicable unit.

To request live training regarding report of Prohibited Conduct, please contact ECRT:

- Email: ecrtoffice@umich.edu
- Phone: (734) 763-0235
- In person: 2027 Administrative Services Building, 1009 Greene Street, Ann Arbor, MI 48109

REPORTING CRIMES

Does the University Report Sexual and Gender-Based Crimes To the Police?

Yes. When ECRT receives information about a possible crime, in addition to taking other steps related to the Policy:

- ECRT submits information to the University's Division of Public Safety and Security (DPSS).
- DPSS can then:
 - Assess the information for possible action;
 - Reach out to impacted individuals to let them know about options they may have through DPSS; and
 - Share information with the appropriate agency if a crime is alleged to have occurred off campus.
- This does not automatically result in the opening of a criminal investigation.
- This also does not preclude responsive action by the University under the Policy.

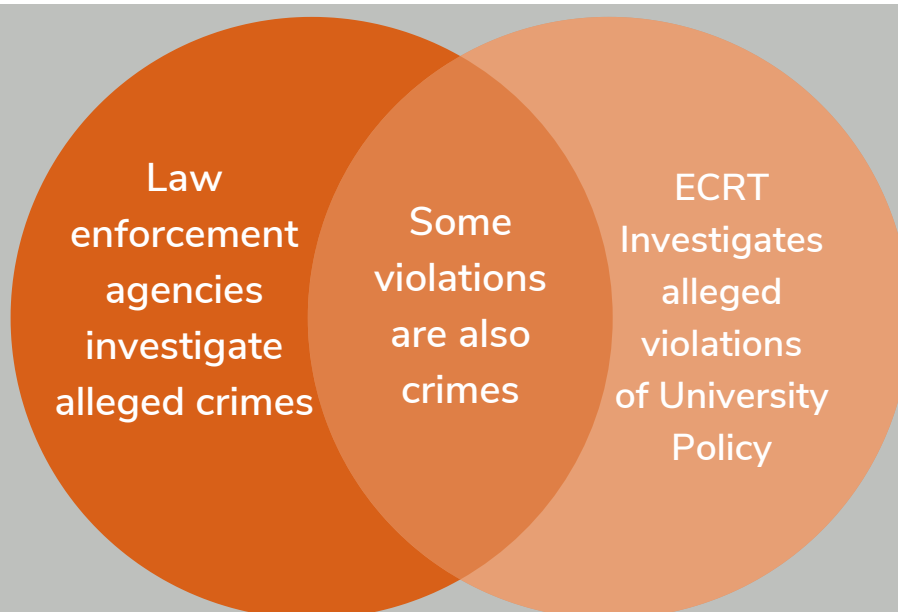
Individuals who believe they have experienced Prohibited Conduct that may also be a crime may choose to report to ECRT, law enforcement, neither, or both.

Many others on campus also have obligations under the Clery Act to notify DPSS of information they learn about certain alleged crimes, for purposes of assessing timely warnings to the community as well as annual statistical reporting. For more information about who is a CSA, please contact the Clery Compliance Coordinator, Erik Mattila, at emattila@umich.edu.

INVESTIGATING CRIMINAL CONDUCT

Does the University Investigate Crimes?

- ECRT investigates and otherwise responds to allegations of a violation(s) of University policy.
- Law enforcement agencies investigate allegations of criminal conduct.
- Some behaviors fall under both this Policy and criminal statutes, so they may be addressed by ECRT as possible violations of the Policy and by a law enforcement agency as possible crimes.
- A University response to a report under the Policy does not mean the same concern cannot also be investigated as a crime.
- This is consistent with other conduct that may be both a crime and a violation of University policy (e.g., if a student stole another student's property or punched, stabbed, or otherwise physically assaulted another student outside of an intimate partner relationship, that would be a crime as well as a violation of the Statement of Student Rights and Responsibilities and both law enforcement and the University would be expected to appropriately address an allegation of such behavior)
- Federal law, including Title IX, specifically prohibits the University from simply reporting a matter to law enforcement and relying upon the outcome of a criminal investigation, rather than taking its own steps to assess and respond to the concerns under the Policy.



INVESTIGATING CRIMINAL CONDUCT

Does the University Investigate Crimes?

The table below shows whether the University, through ECRT, law enforcement, or both may have an appropriate role to play in responding to various types of alleged behaviors.

BEHAVIOR	ECRT	LAW ENFORCEMENT	BOTH
May violate the policy and criminal statute(s) <u>Example:</u> Sexual Assault	YES	YES	YES
May violate the Policy; does not violate criminal statute(s) <u>Example:</u> Unwelcome, sexualized comments creating a hostile environment	YES	NO	NO
May violate criminal statute, but not this Policy <u>Example:</u> personal tax fraud	NO	YES	NO

THE POLICY & THE CLERY ACT

Why Do the Numbers in This Report Differ From the University's Annual Security Report?

The University's Annual Security Report and Annual Fire Safety Report is a specific report required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). In accordance with the 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 2021 fiscal year while this year's Annual Security Report reflects the 2020 calendar year).

	Annual Security Report	Annual Report Regarding Institutional Responses to Reports of Sexual and Gender-Based Misconduct
Time Period	January 1, 2020 - December 31, 2020	July 1, 2020 - June 30, 2021
Conduct Reported	Reports to DPSS of certain crimes	Reports to ECRT of possible Sexual and Gender-Based Misconduct
Geography	Specific locations on campus or within University's control	Any location, on or off campus

REPORTS & RESPONSES THIS YEAR

Robert Anderson Investigation by WilmerHale

Following an investigation by the University of Michigan Police Department of reports of sexual misconduct by the late University of Michigan former employee Dr. Robert Anderson, the University requested in FY2020 that the law firm WilmerHale conduct an investigation into the allegations involving Dr. Anderson. The vast majority of allegations regarding Dr. Anderson's misconduct were made directly to WilmerHale, but ECRT also received reports related to Dr. Anderson that ECRT forwarded to WilmerHale for inclusion in its investigation. WilmerHale issued its investigation report on May 11, 2021. The report found that Dr. Anderson engaged in a "pervasive, decades-long, destructive pattern of sexual misconduct" in the context of the various roles he held at the University between 1966 and 2003. That report is available [here](#).

The University continues to provide free, confidential counseling for individuals impacted by Dr. Anderson's conduct, available through Praesidium, a national expert in abuse prevention with extensive experience facilitating survivor support services. The University has reached a tentative settlement with approximately 1,050 individuals who have reported experiencing abuse by Dr. Anderson.



REPORTS & RESPONSES THIS YEAR

How Many Reports Did ECRT Receive?

During FY21, ECRT received 527 reports of possible sexual and gender-based misconduct by university students, faculty, staff, or third parties. This is a slight increase from reports received during the previous year. Previous annual reports can be found [on ECRT's website](#).

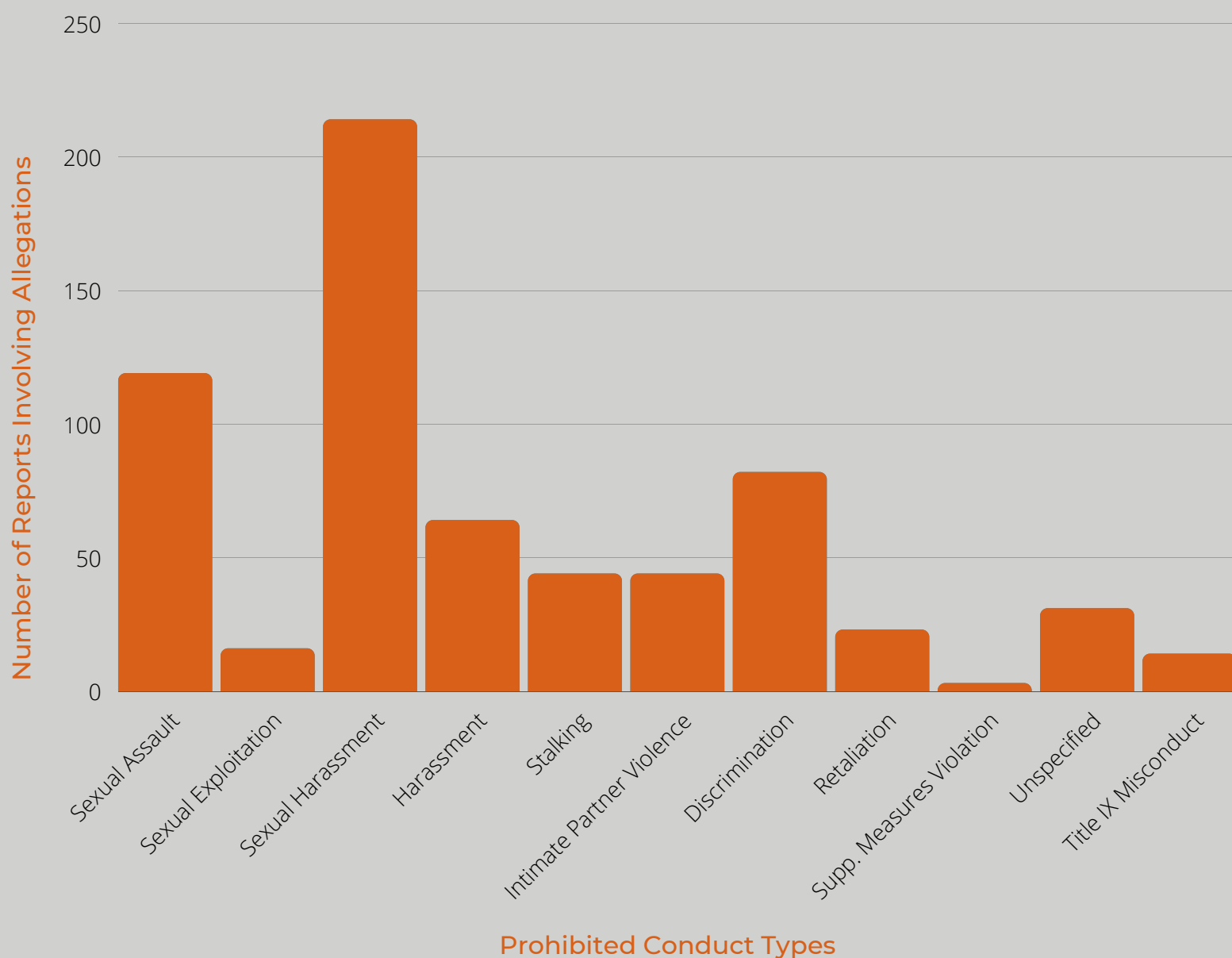
Often, a report may involve more than one potential Policy violation. Among the 527 reports, many involved multiple allegation types (either because a single alleged incident could potentially constitute more than one form of Prohibited Conduct, or because a single report may contain multiple alleged types of behaviors). Of the 527 reports:

- 119 reports involved allegations of Sexual Assault;
 - 29 involved allegations of oral, vaginal, or anal penetration;
 - 61 did not involve allegations of penetration;
 - 30 did not contain sufficient information to identify whether penetration or other oral, genital, or anal contact was alleged;
- 16 reports involved allegations of Sexual Exploitation;
- 213 reports involved allegations of Sexual Harassment;
- 63 reports involved allegations of Sex and Gender-Based Harassment;
- 44 reports involved allegations of Sex and/or Gender-Based Stalking;
- 44 reports involved allegations of Intimate Partner Violence;
- 81 reports involved allegations of Sex and Gender-Based Discrimination;
- 23 reports involved allegations of Retaliation;
- 3 reports involved allegations of Violation of Supportive Measures; and
- 31 reports involved allegations of unspecified sexual or gender-based misconduct without sufficient information to identify the potential Policy violations.

Fourteen of the above reports involved allegations that also fell within Title IX Misconduct. Title IX Misconduct is explained in more detail on page 18 of this report.

REPORTS & RESPONSES THIS YEAR

Types of Prohibited Conduct Reported



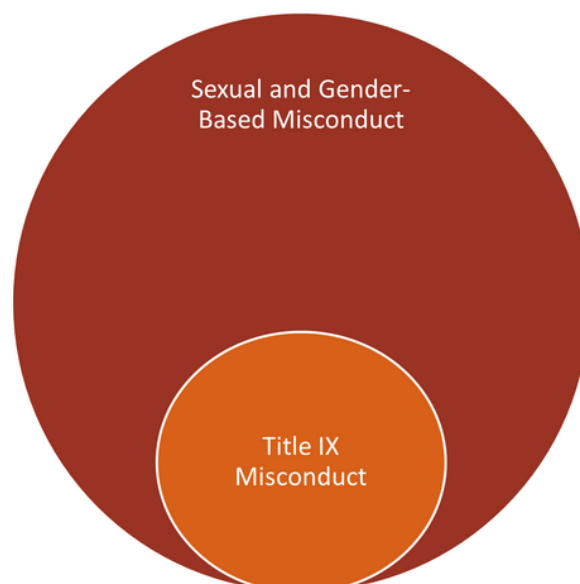
REPORTS & RESPONSES THIS YEAR

What Is Title IX Misconduct & Why Is It Specifically Identified?

Fourteen of the above reports involved allegations that also fell within Title IX Misconduct. Title IX Misconduct involves specific definitions designated within the federal Title IX Regulations, reportedly occurring under certain circumstances.

Title IX Misconduct is differentiated from other Sexual and Gender-Based Misconduct more by the circumstances of the alleged incident and the existence of a Formal Complaint, rather than representing substantively different types of behaviors. To the contrary, behavior falling under Title IX Misconduct generally also falls under another Prohibited Conduct definition. Title IX Misconduct allegations are essentially allegations of another form of Prohibited Conduct when the following circumstances are also met:

- Occurs in the United States;
- Occurs in a University Program or Activity;
- A Formal Complaint is filed;
- Fits certain definitions as outlined in the Policy, which generally would also constitute another form of Sexual and Gender-Based Misconduct (see Appendix A).



Reports of conduct that meet these criteria are called Title IX Misconduct because they reflect the definition of sexual harassment set forth in the federal Title IX regulations as amended in 2020. The Title IX regulations define sexual harassment more narrowly than the University's Policy, and some other civil rights laws.

- Accordingly, the federal regulations set the "floor" for what the University is required to prohibit, but the University is permitted to take more action to address sexual misconduct than Title IX requires.
- UM chooses to also address forms of sexual misconduct that are reported to occur within the University community but may not meet the narrow Title IX regulations that would require the University to do so.
- The regulations require the University to make a determination as to whether allegations contained within a Formal Complaint meet the Title IX definition of sexual harassment.
- The regulations require certain prescriptive procedures (including a live hearing) to address allegations that fall within the Title IX definition of sexual harassment.
- If the alleged conduct does not meet the Title IX Misconduct criteria, the regulations require the Title IX Coordinator to dismiss, for Title IX purposes, a Formal Complaint of alleged conduct that falls outside of the narrow Title IX definition of sexual harassment.
- If the conduct still falls within the University's Policy, the University will still address the behavior in accordance with the applicable procedures.

REPORTS & RESPONSES THIS YEAR

Who Was Involved in the Reports?

ECRT generally receives reports involving behavior when the Complainant (the person reported to have experienced the conduct), the Respondent (the person reported to have engaged in the conduct), or both are students, faculty, staff, or have some other connection to the University (e.g., patients, visitors to campus events, etc.,

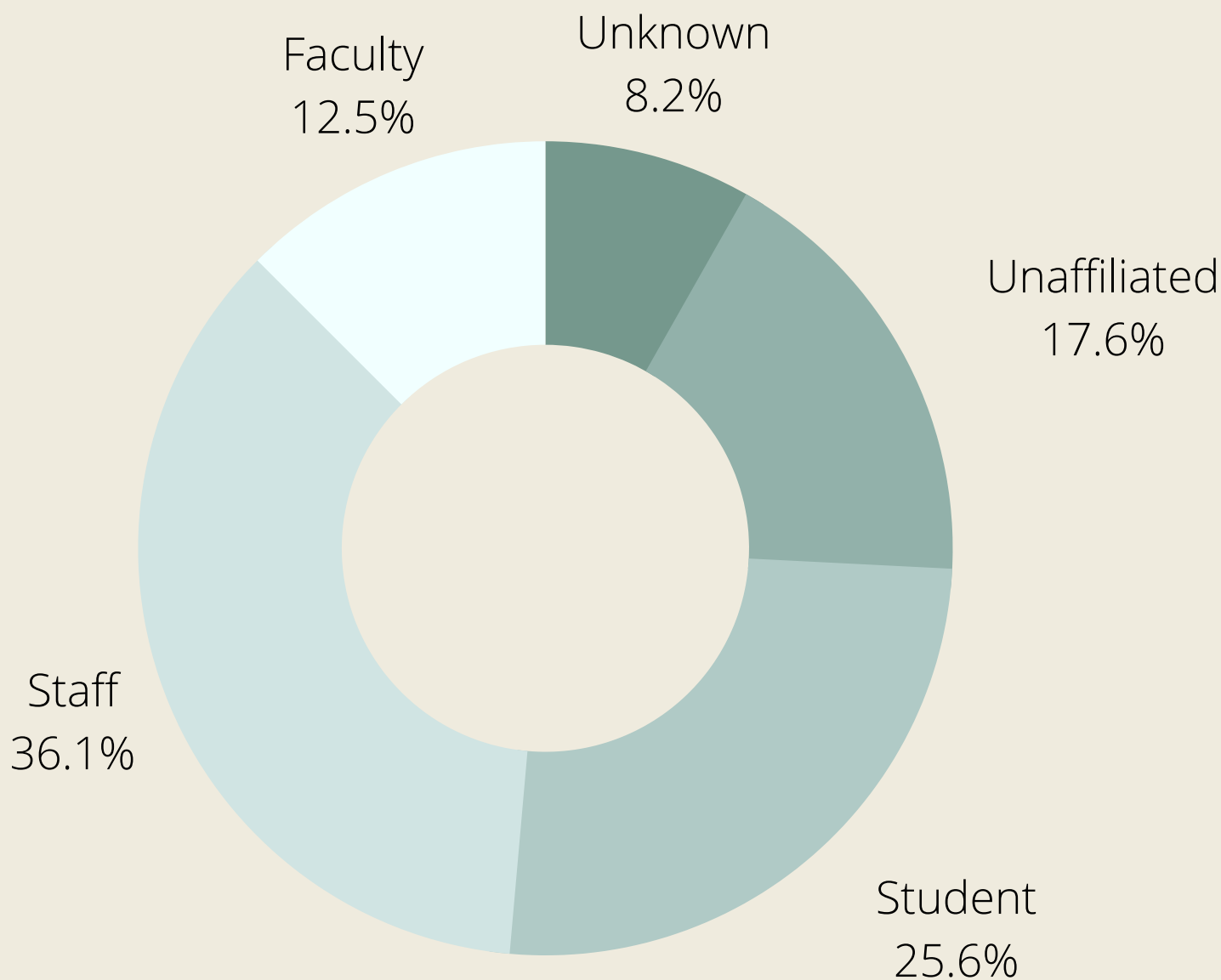
Of the 527 reports ECRT received regarding sexual and gender-based misconduct in FY2021, three gender-based concerns were raised more generally regarding University policies or practices, or a variety of aspects of a particular unit.

Of the 524 reports involving an individual Respondent(s):

- 189 involved staff Respondents;
- 66 involved faculty Respondents;
- 134 involved student Respondents;
- 92 reports involved conduct allegedly engaged in by individuals who are not students, faculty, or staff at the University of Michigan;
 - 48 involved Respondents who are not students, faculty, or staff at UM, but the reported conduct had some connection to the University environment;
 - 44 involved reported behavior of the type prohibited under the Policy, but the Respondent is not affiliated with the University, and in fact the incident(s) are entirely unrelated to the University of Michigan except for the Complainant's affiliation with the University; and
- 43 of the reports of sexual and gender-based misconduct did not contain sufficient information for ECRT to identify who the Respondent is or even whether and how they may be affiliated with the University.

REPORTS & RESPONSES THIS YEAR

Respondent Affiliations with UM



REPORTS & RESPONSES THIS YEAR

What Happens When a Concern Is Reported?

INITIAL ASSESSMENT

ECRT considers immediate safety issues, submits information to DPSS if a report contains information about a possible crime, and begins to consider possible next steps.



When a matter is reported, ECRT conducts an initial assessment and outreach. The initial assessment includes:

- Assessing the nature of the allegations and party affiliation (if known from the report) to identify possible resolution options; and
- Assess and make any necessary reports to DPSS or other appropriate agencies.



OUTREACH

ECRT contacts the Complainant if known, to provide information about resources, and supportive measures and to offer a meeting to explore resolution options.

Depending on the amount of information available in the report, initial outreach typically includes:

- Reporter
 - to confirm receipt of the report and seek additional information as necessary;
- Complainant
 - To provide information about supportive measures and resources;
 - To notify Complainant of options they have, such as seeking medical treatment, reporting to law enforcement, filing a Formal Complaint with ECRT, etc.;
 - To notify the Complainant that Retaliation is prohibited;
 - To provide the Complainant with the Policy, Procedures, and other informational documents;
 - To request to meet with the Complainant to answer questions and learn more about the matter.

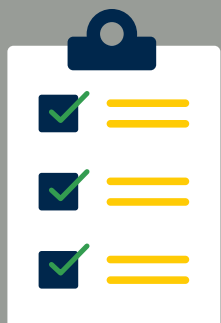
RESOURCES AND SUPPORT

Regardless of whether a Complainant files a Formal Complaint or participates in a resolution process, there are lots of people and resources on campus that can provide support and assistance. ECRT can connect the Complainant with supportive campus resources and assist with Supportive Measures.



RESOLUTION OPTIONS

There are a variety of formal and informal resolution options that may be appropriate. ECRT explains the processes the Title IX Coordinator determined the appropriate action, with strong consideration given to the Complainant's wishes.



REPORTS & RESPONSES THIS YEAR

Modes of Addressing Reports

The University responded to all of the 527 reports it received. A critical part of ECRT's response to each report is providing involved individuals with information about resources, supportive measures, and resolution options.

In addition to supportive measures and resources, one or more of the following University resolution processes occurs in response to each report:

- Investigation;
 - Investigative Resolution under Student Procedures;
 - Sexual and Gender-Based Misconduct Process under Employee Procedures;
 - Title IX Misconduct Process under Employee Procedures;
- Adaptable Resolution;
- Mediation (Employee Procedures only);
- Pre-Investigation Review; and/or
- Consultation/Referral/Other Remedies.

Which of the above actions are taken depends on factors such as:

- Whether the parties' identities are known;
- The nature of the Respondent's affiliation (if any) with the University;
 - Whether Respondent was subject to the Policy at the time of the alleged conduct;
 - Whether the University has the current ability to impose sanctions on the Respondent if it finds the Respondent has violated the Policy;
 - Whether the Student Procedures, Employee Procedures, or both may be applicable;
- Whether the Complainant responds to ECRT outreach, and what procedural option (if any) they request;
- If the Complainant does not elect to file a Formal Complaint, whether they are available and willing to participate in an ECRT investigation; and
- Whether the conduct as alleged would constitute a potential Policy violation.

REPORTS & RESPONSES THIS YEAR

Reports Where the Complainant Chooses Not to Pursue Any Action

In some cases, a complaint may elect not to engage with ECRT at all, or may consider information about resolution options and determine that they do not wish for ECRT to take action in response to the concerns. While ECRT seeks to act consistently with any requests by the complainant as to the resolution process, in all instances ECRT must consider implications for the entire University community, including campus safety and the risk of future misconduct, as well as the University's legal obligations.

Accordingly, in some cases (particularly involving allegations of sexual misconduct by a University employee), the Title IX Coordinator may initiate a formal investigation, if there is sufficient information to do so, or other resolution option as may be feasible and appropriate depending on the amount of information available. If the Title IX Coordinator opens an investigation where the Complainant has declined to do so, ECRT informs the complainant, who may or may not elect to participate in the investigation process. A complainant is never compelled to participate in a process, and supportive measures remain available regardless of their decision. Likewise, Retaliation is prohibited regardless of the resolution action taken and whether the complainant chooses to participate.

REPORTS & RESPONSES THIS YEAR

Reports Where the Parties' Identities Are Unknown to ECRT

In some cases, ECRT may not know the identities of the parties involved in a report. For example:

- Concerns may be reported anonymously;
- A third party may report concerns without identifying the complainant to ECRT;
- The Complainant may not know who engaged in the behavior at issue;
- The Complainant may choose not to identify the Respondent to ECRT if they do not want a University response to their concerns.

This year, the Complainant's specific identity was unknown to ECRT in 116 of the 527 reports. The Respondent's specific identity was unknown to ECRT in 153 reports. In some instances, ECRT may have general information about a party, e.g., ECRT may receive a report about "a faculty member" but no additional identifying information.

In instances where one or both parties' identities are unknown to ECRT, ECRT tries to use the available information in order to, for example:

- Pass information to an unidentified Complainant, e.g., through a third-party reporter, to ensure Complainant has accurate information about resources, supportive measures, and reporting options;
- Address the reported behavior with the Respondent and provide education about University policy and expectations, even if the Complainant's identity is unknown;
- Seek additional information to identify the Respondent(s);
- Seek additional information to identify whether there may be a pattern of concern in an area of the University or regarding the particular Respondent.

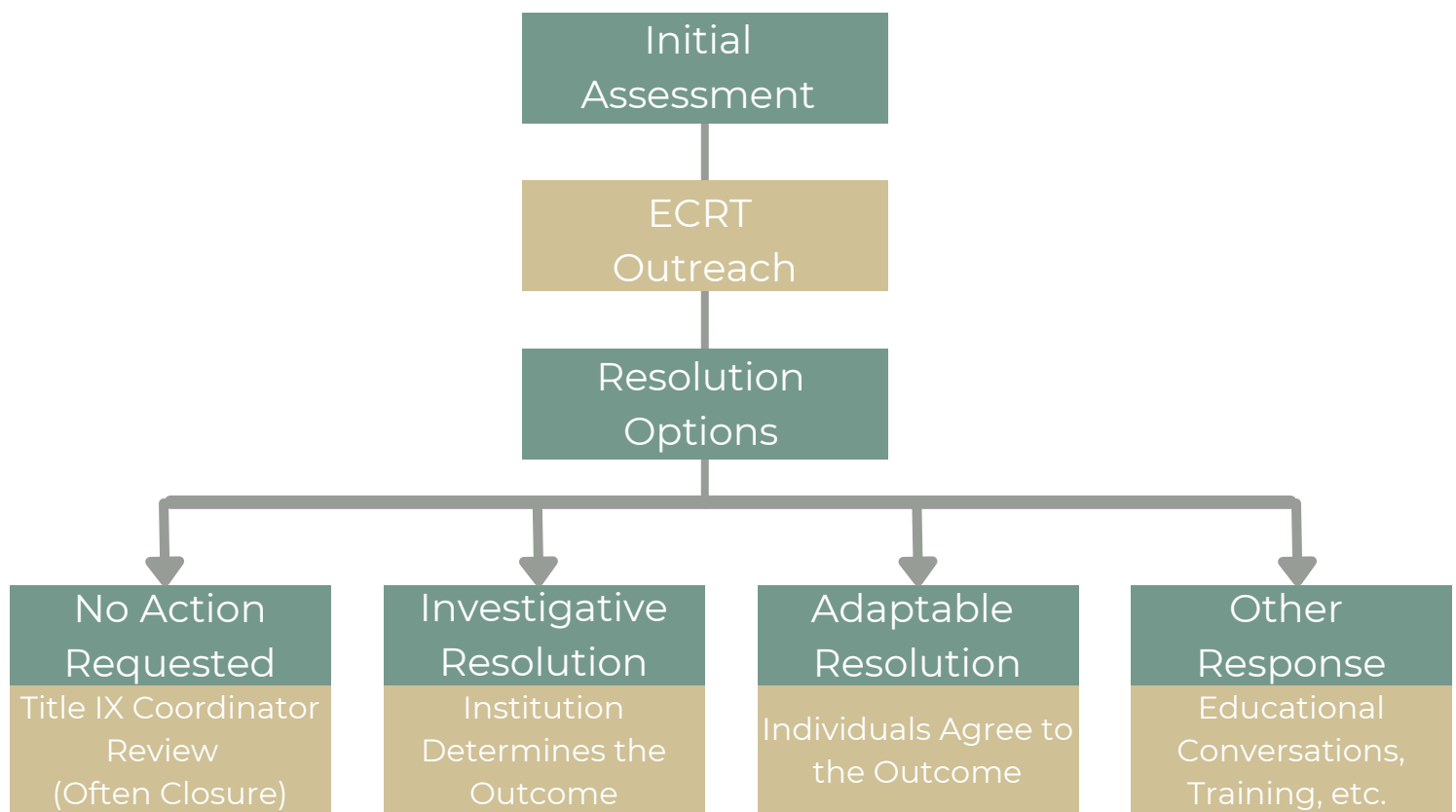
These efforts may be a Consultation, Review, Referral, or Other Response

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Matters Involving Student Respondents

As noted above, the action taken to address a report is generally made after, and informed by, communication with the Complainant; review of whether there are prior reports involving the parties or of similar alleged conduct by the Respondent; possible patterns in an area, organization, or unit within the University; and consideration of whether the conduct constitutes a potential Policy violation, as alleged, or would be inappropriate but not specifically Prohibited Conduct.



In the 134 reports in which the Respondent was understood to be a current University of Michigan student, ECRT provided each identified Complainant with information about how to file a Formal Complaint, the availability of supportive measures, additional resources, and resolution options including reporting any possible criminal conduct to law enforcement. In instances where ECRT did not have access to the Complainant's identity but a person who may have reported the matter but declined to identify the Complainant to ECRT (and did not have an obligation under University policy to do so), ECRT requested the person to pass on the same information to the unidentified Complainant to ensure the Complainant received the information even if they did not interact with ECRT.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Formal Complaints

Of the 134 reports understood to involve a student Respondent:

- There were 22 matters in which a Formal Complaint was filed alleging conduct that would, if supported by evidence, constitute a Policy violation and requesting a formal resolution process (either an investigative resolution or an adaptable resolution)
 - In 13 cases, Complainant(s) initiated an Investigative Resolution
 - In one case, the Complainant(s) did not file a Formal Complaint but the Title IX Coordinator filed a Formal Complaint to initiate an Investigative Resolution
 - In 8 cases, Complainant(s) filed a Formal Complaint to request an Adaptable Resolution, the Respondent agreed to participate in Adaptable Resolution, and the Title IX Coordinator approved the use of Adaptable Resolution



It generally is not legally permissible or possible for the University to proceed with an investigative resolution to reach a finding of a violation without the Complainant's participation in a live hearing when the Respondent is a student, and Adaptable Resolution is never an option without the parties' voluntary participation.

Accordingly, in the 112 remaining cases - in which no Formal Complaint of a potential Policy violation was filed - other interventions or remedies (e.g., educational conversations with individuals, training efforts for a group of individuals) were used to address concerns where information was available and it was appropriate to do so.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Formal Complaints

	INVESTIGATIVE RESOLUTION	ADAPTABLE RESOLUTION
Formal Complaint Required	Yes	Yes
Title IX Coordinator Approval Required	Yes	Yes
May Be Initiated by Title IX Coordinator without Complainant's Request	Yes	No
May be initiated and completed without Respondent's agreement/participation	Yes	No
Disciplinary/Non-Disciplinary	Disciplinary	Non- Disciplinary
Focus	Policy violation(s) supported by evidence	Harm
Purpose	Eliminate Prohibited Conduct, prevent its recurrence, remedy effects	Eliminate Prohibited Conduct, prevent its recurrence, remedy effects
Possible Outcomes	Violation found/sanctions; No violation finding/no sanctions	Parties agree on a resolution agreement; parties do not agree and an investigation is opened; parties do not agree and matter is closed

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Why Aren't There More Student Investigations?

In this report, Investigation refers to a specific, formal resolution process through ECRT. It is important to understand that a formal Investigation is only one of many actions that may be requested to address a concern. Consistent with Title IX regulations, a Formal Complaint is required to initiate a formal Investigation. As discussed on pages 23-24, some complainants do not wish to pursue an investigation, and either or both parties may not even be identified to ECRT. As noted on page 26, there were 13 instances this year in which a complainant(s) filed a Formal Complaint containing allegations of a potential Policy violation(s) and requested an Investigative Resolution under the Student Procedures.

Under Title IX, a report from a third party is not a Formal Complaint. If the Complainant declines to file a Formal Complaint, the Title IX Coordinator may do so where appropriate. In instances where the complainant has requested that no Investigation be opened, for the Title IX Coordinator to file a Formal Complaint means that the Title IX Coordinator has determined:

- There is sufficient information to indicate a potential violation of the Policy; and
- There is sufficient information and legal ability to complete the appropriate Investigation process to reach a determination as to whether the respondent violated the Policy; and
- There is a reason such as safety of the complainant, safety of the University community, the risk of future Prohibited Conduct, or other sufficient justification to override the complainant's request.

When the respondent is a student, it generally is not legally permissible or possible for the University to proceed with an investigative resolution to reach a finding of a violation without the Complainant's participation in a hearing when the respondent is a student. Accordingly, this year there was only one instance in which the Title IX Coordinator determined it was appropriate to file a Formal Complaint under the Student Procedures where the Complainant did not do so.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Investigative Resolutions

An investigative resolution under the Student Procedures is appropriate when:

- The Respondent is a Student, as defined in the Policy; and
- The alleged conduct would constitute Prohibited Conduct, if supported by evidence; and
- The Complainant requests an investigative resolution; or
- The Complainant elects not to file a Formal Complaint but is willing to participate and submit to cross-examination at a hearing; and
- The Title IX Coordinator determines there is sufficient information to proceed and a Title IX or other obligation to do so.

The graphic below shows an overview of the investigative resolution process under the Interim Student Procedures.

1 Complainant meets with ECRT for a recorded interview

- Complainant shares information about their experience with Investigator, and Investigator asks questions
- Complainant will have three calendar days to review statement summary + transcript
- Complainant can provide evidence at or following this interview

2 Complainant or Title IX Coordinator files a Formal Complaint requesting Investigative Resolution

- Title IX Coordinator reviews within one business day
- Respondent is notified of the Formal Complaint and next steps

3 ECRT Meets with Respondent

- Respondent shares information about their experience with Investigator, and Investigator asks questions
- Respondent will have three calendar days to review statement summary + transcript
- Respondent can provide evidence at this or following this interview

4 ECRT interviews witnesses + gathers additional information

- Timing ranges from 1 week to 6 weeks
- Each witness has two business days to respond to statement summary + transcript

5 Preliminary Report & Evidence File Review

- ECRT provides Complainant and Respondent with preliminary report, which includes all relevant information gathered by the Investigator
- Parties have 10 calendar days to respond
- Investigator reviews any new information provided by parties and incorporates as appropriate

6 Pre-Hearing Meeting

- Occurs approximately 1-2 weeks after final report completion
- Complainant and Respondent meet separately with ECRT staff member & Hearing Officer to discuss the final report, logistics of the hearing, and remainder of process.

7 Hearing

- Hearings occur over Zoom
- The Hearing Officer and each party's advisor may ask questions of Complainant, Respondent, and/or witnesses
- Complainants and Respondents never speak directly to one another

8 Hearing Outcome

- Communicated simultaneously to Complainant and Respondent, ideally within 30 days of hearing
- Potential outcomes -
 - Evidence supports that Respondent violated Policy
 - Sanctions are included in hearing outcome.
 - Evidence does not support that Respondent violated policy

9 Appeal

- Either party may (but is not required to) submit an appeal within 14 calendar days of receipt of Hearing Outcome
- Non-appealing party has 14 calendar days to respond
- External reviewer makes determination, to be approved or modified by Vice President of Student Life

REPORTS & RESPONSES THIS YEAR

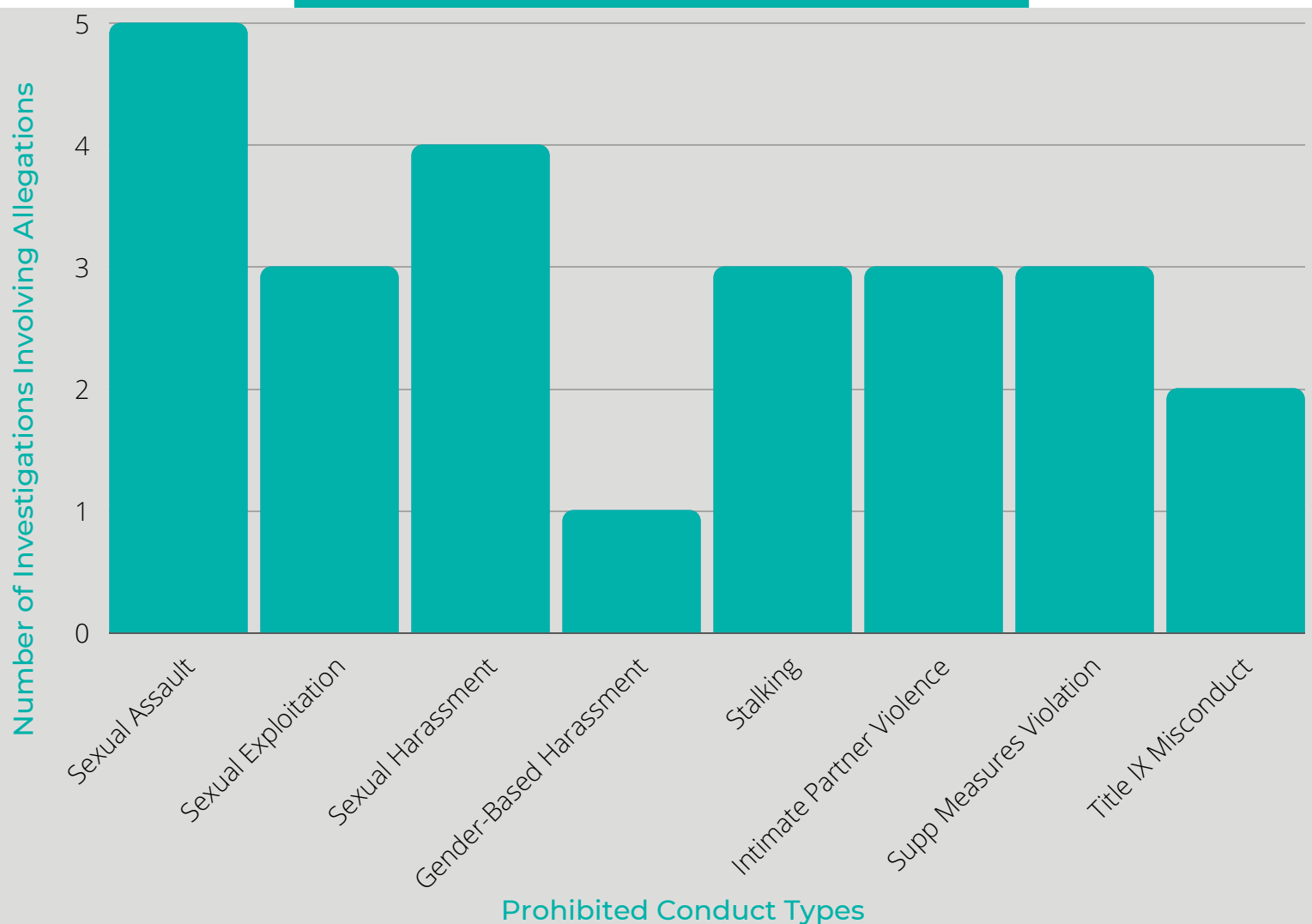
MATTERS INVOLVING STUDENT RESPONDENTS

Investigative Resolutions

Of the 14 reports that proceeded to investigative resolution under the Interim Student Procedures, some involved multiple allegations:

- 5 involved allegations of Sexual Assault
- 3 involved allegations of Sexual Exploitation
- 4 involved allegations of Sexual Harassment
- 1 involved allegations of Gender-Based Harassment
- 3 involved allegations of Sex and/or Gender-Based Stalking
- 3 involved allegations of Intimate Partner Violence
- 0 involved allegations of Sex and Gender-Based Discrimination
- 0 involved allegations of Retaliation
- 3 involved allegations of Supportive Measures
- 2 also involved allegations of Title IX Misconduct

Types of Prohibited Conduct at Issue



REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Investigative Resolutions

Of the 14 investigative resolutions under the Interim Student Procedures during the relevant time period:

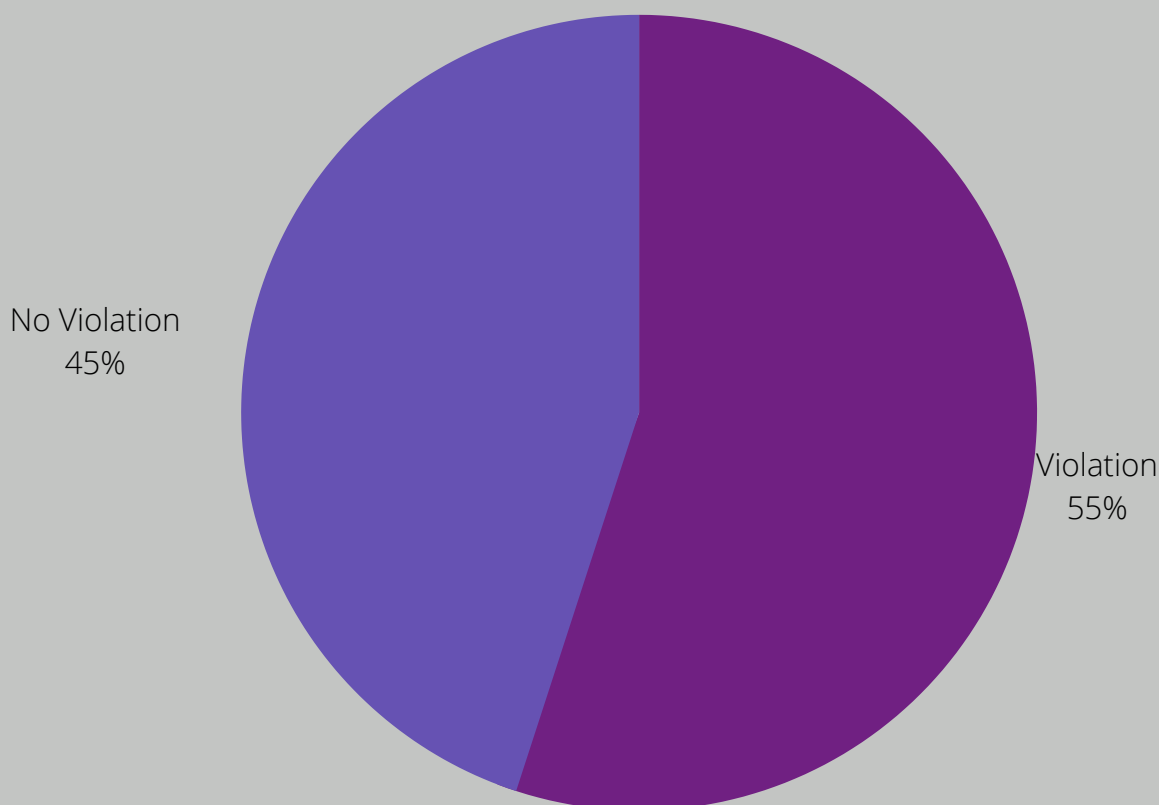
- 11 were completed entirely as of data gathering for this report;
- 2 were closed due to lack of Complainant participation after the investigation was opened;* and
- 1 investigative resolution process was proceeding as of data gathering.

*It generally is not legally permissible or possible for the University to proceed with an investigative resolution to reach a finding of a violation without the Complainant's participation in a hearing, when the Respondent is a student.

Of the 11 investigations that have been completed to a finding:

- 6 (55%) resulted in a finding of at least one Policy violation; and
- 5 (45%) resulted in no Policy violations found.

Student Procedures Investigative Resolution Findings



More specific information about the outcome of each investigative resolution is available in Appendix B.

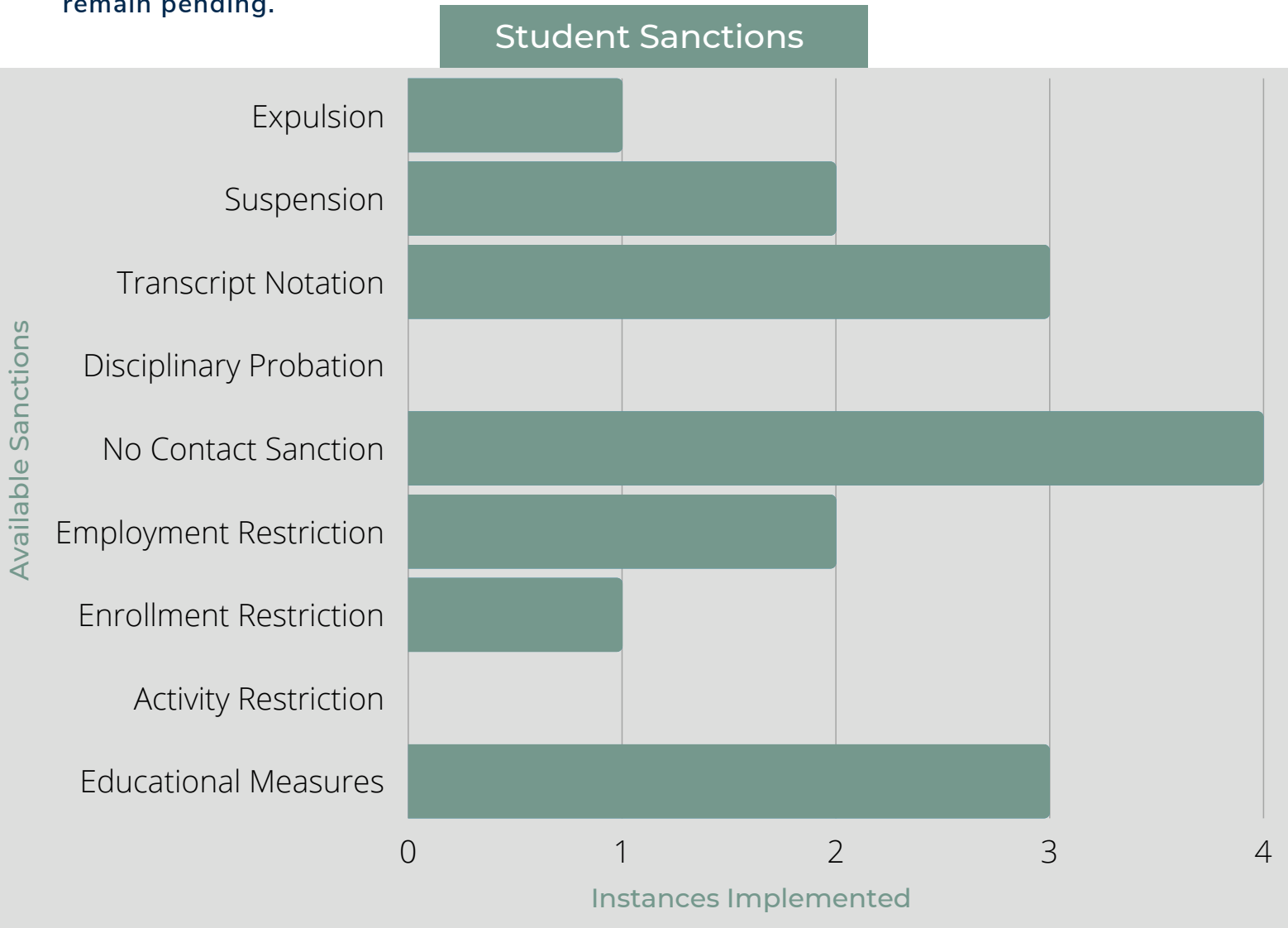
REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Sanctions

When a Respondent is found to have violated the Policy, the Office of Student Conflict Resolution (OSCR) determines sanctions that are designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects. The parties have an opportunity to submit an input statement before sanctions are determined by OSCR.

As noted above, of the eleven investigative resolutions that were opened and completed to a finding in the past year, there were six cases in which a Respondent was found to have violated the Policy. Sanctions have been implemented in all of them. The chart below shows the sanctions from the six cases in which the investigative resolution is fully completed, sanctions have been implemented, and no appeals or related procedures remain pending.



The University generally imposes multiple sanctions on a Respondent who is found responsible for violating the Policy. For a more detailed table that demonstrates the specific combination of sanctions issued in each of the six cases where final sanctions have been determined, please see Appendix B.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Additional Interventions to Remedy Discriminatory Efforts

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 Complainant, 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 for voluntary participation), or such other measures as may be appropriate under the circumstances.



Student Investigations - Appeals

Both the Complainant 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.

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. Of the matters reported during FY21 and completed to date:

- Two Respondents appealed the sanctions
 - In both appeals, the sanctions were upheld.
- No parties appealed the finding
- No appeals were submitted by any Complainant

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Adaptable Resolution

Adaptable Resolution is another formal resolution pathway that is available by request of one or both parties, voluntarily entered into by all participating parties, and approved by the Title IX Coordinator.

Adaptable Resolution is:

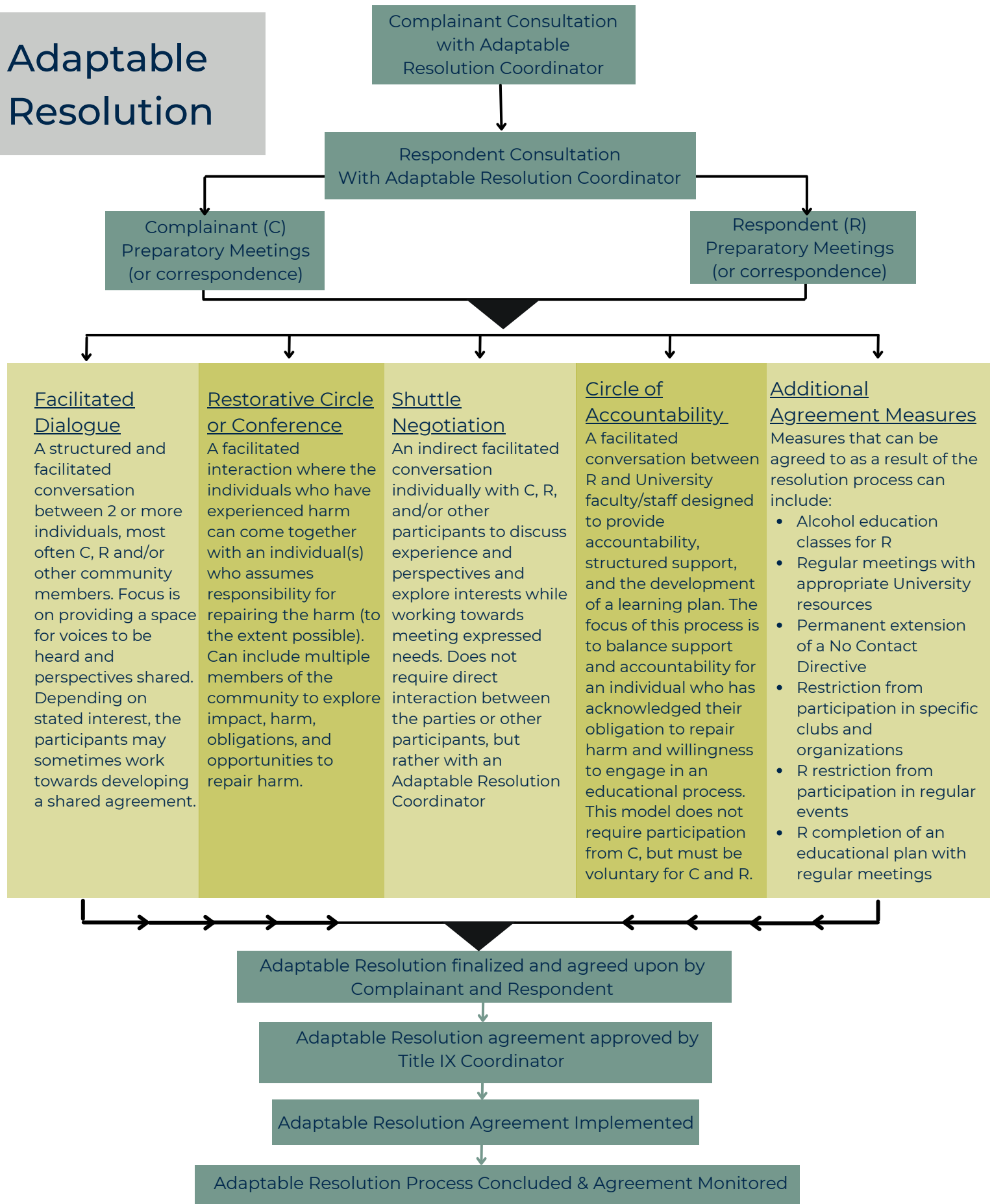
- Voluntary
- Remedies-based
- Non-disciplinary
- Structured in accordance with the needs of the parties
- Designed to allow Respondent to acknowledge and repair (to the extent possible) harm
- Aimed toward creating an agreement that meets both parties' need to address harm and promote accountability



REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING STUDENT RESPONDENTS

Adaptable Resolution



REPORTS & RESPONSES THIS YEAR MATTERS INVOLVING STUDENT RESPONDENTS

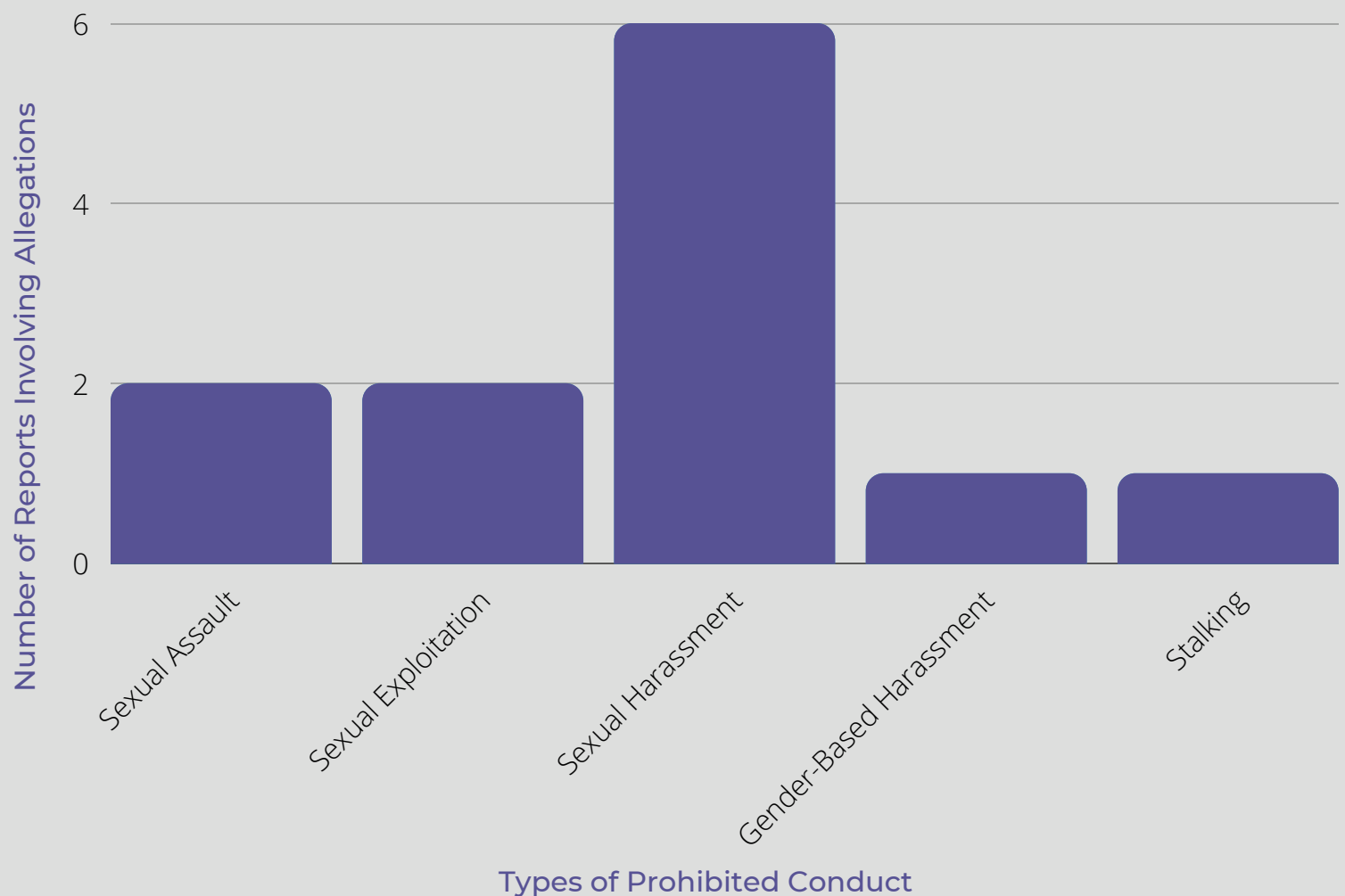
Adaptable Resolution

Of the 8 matters where Adaptable Resolution was requested, agreed upon by the participating parties, and approved by the Title IX Coordinator:

- 2 involved allegations of Sexual Assault
- 2 involved allegations of Sexual Exploitation
- 6 involved allegations of Sexual Harassment
- 1 involved allegations of Stalking
- 1 involved allegations of Gender-Based Harassment

None of the matters in which Adaptable Resolution was requested, agreed upon by the participating parties, and approved by the Title IX Coordinator involved allegations of: Intimate Partner Violence; Retaliation; Violation of Supportive Measures, or Sex or Gender-Based Discrimination

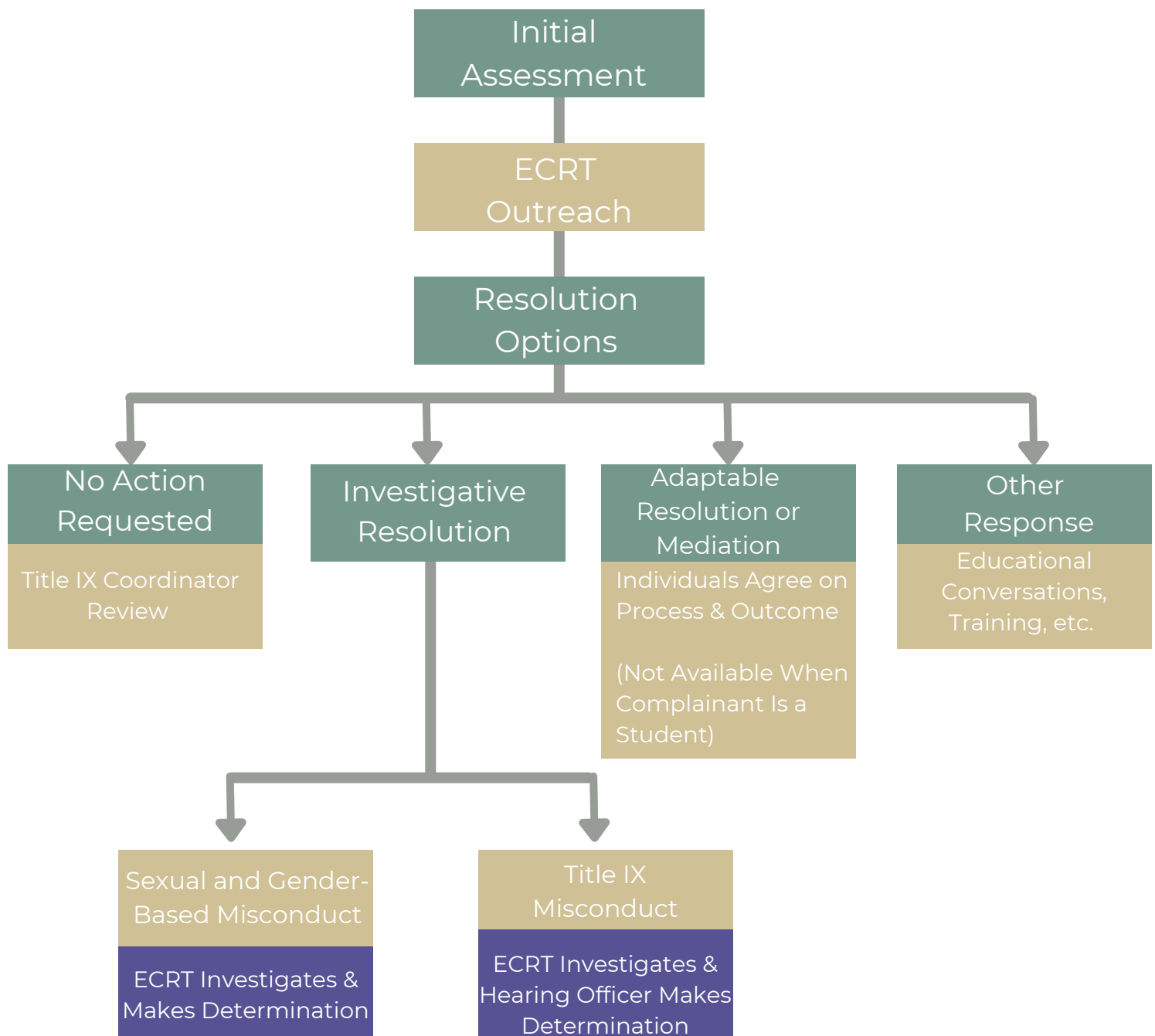
Adaptable Resolution: Types of Prohibited Conduct Alleged



REPORTS & RESPONSES THIS YEAR

Matters Involving Employee Respondents

As noted above, the action taken to address a report is generally made after, and based on, communication with the Complainant; review of whether there are prior reports involving the parties or of similar alleged conduct by the Respondent, possible patterns in an area, organization, or unit within the University; and consideration of whether the conduct constitutes a potential Policy violation, as alleged, or would be inappropriate but not specifically Prohibited Conduct.



REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Formal Complaints

Of the 255 reports in which the Respondent was understood to be a current University of Michigan employee (faculty or staff),

- There were 45 matters in which a Formal Complaint was filed alleging conduct that would, if supported by evidence, constitute a Policy violation and opening an investigation:
 - In 36 cases, Complainant(s) initiated an investigation; and
 - In 9 cases, the Complainant(s) did not file a Formal Complaint but the Title IX Coordinator filed a Formal Complaint to initiate an investigation.

An investigation was opened in each of the 36 matters in which a Complainant(s) filed a Formal Complaint alleging conduct that would, if supported by evidence, constitute a Policy violation and requested an investigation, as well as the nine matters in which the Complainant did not file a Formal Complaint but the Title IX Coordinator initiated the opening of an investigation. It is possible and appropriate under some circumstances for the Title IX Coordinator to open an investigation without a Formal Complaint filed by a Complainant. This is common in matters where:

- Respondent's specific identity is known to ECRT
- Respondent is a University employee
- The conduct, as alleged, constitutes a potential Policy violation, and
- ECRT has, or has a reasonable mechanism to obtain, sufficient information to conduct a fair, thorough, and effective investigation

In addition to the matters involving an investigation, there were:

- Two matters in which the Complainant filed a Formal Complaint requesting something other than an Investigation, and other actions were taken accordingly;
- Two matters in which a Complainant filed a Formal Complaint requesting an investigation but withdrew the Formal Complaint before the process commenced, and the matters were closed.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Why Aren't There More Employee Investigations?

In this report, Investigation refers to a specific, formal resolution process through ECRT. It is important to understand that a formal Investigation is only one of many actions that may be requested to address a concern. Consistent with Title IX regulations, a Formal Complaint is required to initiate a formal Investigation. The most common way a Formal Complaint is filed is by a complainant who is thereby requesting an Investigation under the applicable procedures. As discussed on pages 23-24, some complainants do not wish to pursue an investigation, and either or both parties may not even be identified to ECRT. As noted on page 38, there were 36 instances this year in which a complainant(s) filed a Formal Complaint containing allegations of a potential Policy violation(s) and requested an Investigative Resolution under the Employee Procedures.

Under Title IX, a report from a third party is **not** a Formal Complaint. If the Complainant declines to file a Formal Complaint, the Title IX Coordinator may do so where appropriate. In instances where the complainant has requested that no Investigation be opened, for the Title IX Coordinator to file a Formal Complaint means that the Title IX Coordinator has determined:

- There is sufficient information to indicate a potential violation of the Policy; and
- There is sufficient information and legal ability to complete the appropriate Investigation process to reach a determination regarding responsibility under the Policy; and
- There is a reason such as safety of the complainant, safety of the University community, the risk of future Prohibited Conduct, or other sufficient justification to override the complainant's request.

Generally, where the concerns involve potential misconduct by a University faculty or staff member, if the first two criteria above are met, the Title IX Coordinator files a Formal Complaint to initiate an Investigation. As noted on page 38, this year, nine of the 45 Investigations under the Interim Employee Procedures were initiated by the Title IX Coordinator filing a Formal Complaint, and 36 were initiated by the complainant.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Investigations

It is sometimes possible, but often is not feasible, for the University to proceed with an Investigation to reach a finding of a violation without the Complainant's participation in an Investigation and/or hearing when the Respondent is an employee.

An Investigation under the Employee Procedures is appropriate when:

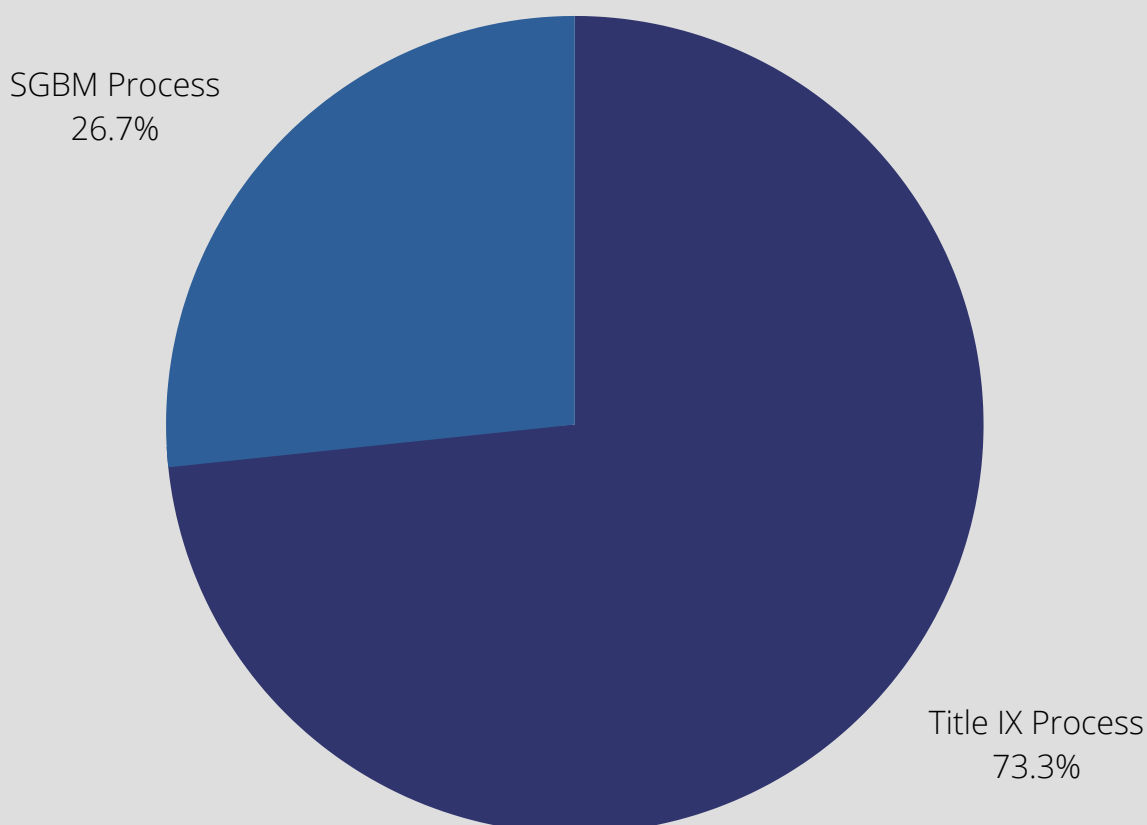
- The Respondent is an Employee and
- The alleged conduct would constitute Prohibited Conduct, if supported by evidence and
- The Complainant requests an investigation or
- The Complainant elects not to file a Formal Complaint but is willing to participate and
- The Title IX Coordinator determines there is sufficient information to proceed and a Title IX or other obligation to do so

As a result of federal Title IX regulations implemented by the Department of Education in 2020, there are two investigation processes under the Interim Employee Procedures:

- Sexual and Gender-Based Misconduct Process
- Title IX Misconduct Process.

Of the 45 investigations conducted under the Interim Employee Procedures:

- 33 were conducted under the Sexual and Gender-Based Misconduct Process
- 12 were conducted under the Title IX Misconduct Process.



REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

	SGBM PROCESS	TITLE IX PROCESS
Applicability	Conduct at issue, as alleged, constituted Prohibited Conduct but not Title IX Misconduct	Conduct at issue, as alleged, constituted Prohibited Conduct & at least one allegation constitutes Title IX Misconduct
Investigation	Conducted by ECRT or other investigators as designated by Title IX Coordinator	Conducted by ECRT or other investigators as designated by Title IX Coordinator
Parties have opportunity to provide & identify evidence & potential witnesses	Yes	Yes
Investigator, not parties, responsible for identifying and obtaining all relevant & available evidence	Yes	Yes
Parties have opportunity to review all evidence prior to a determination being reached	Yes	Yes
Review of Report by Title IX Coordinator or designee	Yes	Yes
Live hearing with cross-examination	No	Yes
Decision-maker	ECRT	Hearing Officer
Possible Outcomes	Violation; no violation; no violation but other inappropriate behavior found	Violation; no violation; no violation but other inappropriate behavior found
Corrective Action	Determined by applicable supervisory authority	Determined by applicable supervisory authority
Appeals of Determination as to Responsibility	No*	Yes
Resulting disciplinary action subject to Applicable Grievance Procedures	Yes	Yes

*Under the Interim Employee Procedures in place in these matters, a determination regarding responsibility was not subject to appeal in the Sexual and Gender-Based Misconduct Process. Effective October 1, 2021, the Employee Procedures provide for either party to appeal the determination regarding responsibility.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Sexual & Gender-Based Misconduct Process

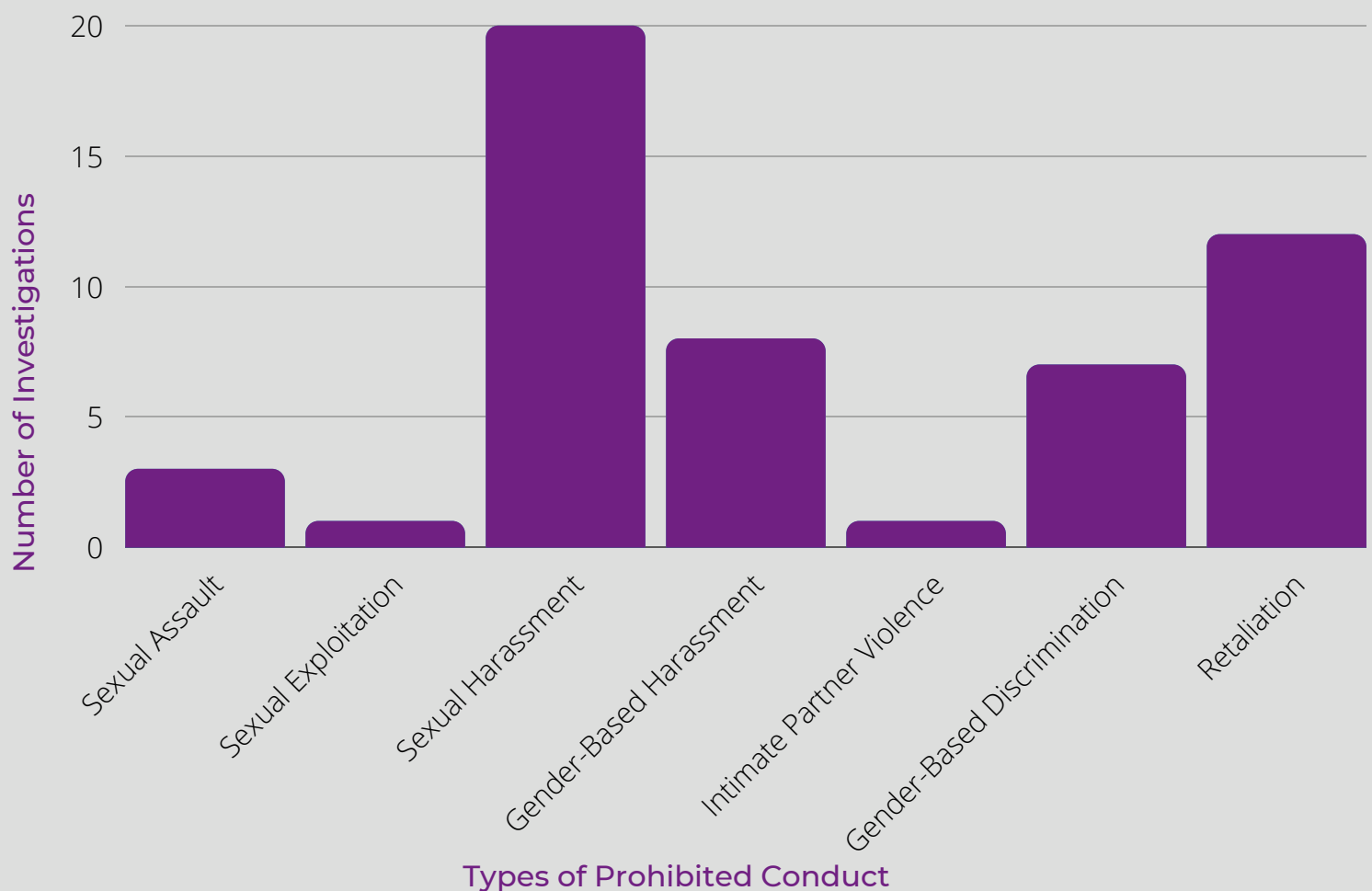
As noted in the preceding table, the Sexual and Gender-Based Process is used when none of the alleged conduct would constitute Title IX Misconduct, either because it does not fit the specific conduct definitions or because certain specific circumstances do not apply.

Of the 33 investigations conducted under the Sexual and Gender-Based Misconduct Process:

- 3 involved an allegation(s) of Sexual Assault
- 1 involved an allegation(s) of Sexual Exploitation
- 20 involved an allegation(s) of Sexual Harassment
- 8 involved an allegation(s) of Gender-Based Harassment
- 1 involved an allegation(s) of Intimate Partner Violence
- 7 involved an allegation(s) of Sex and Gender-Based Discrimination
- 12 involved an allegation(s) of Retaliation

None of the investigations conducted using the Sexual and Gender-Based Misconduct Process involved allegations of Stalking or Violation of Supportive Measures.

Employee SGBM Process: Types of Prohibited Conduct Alleged



REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Sexual & Gender-Based Misconduct Process

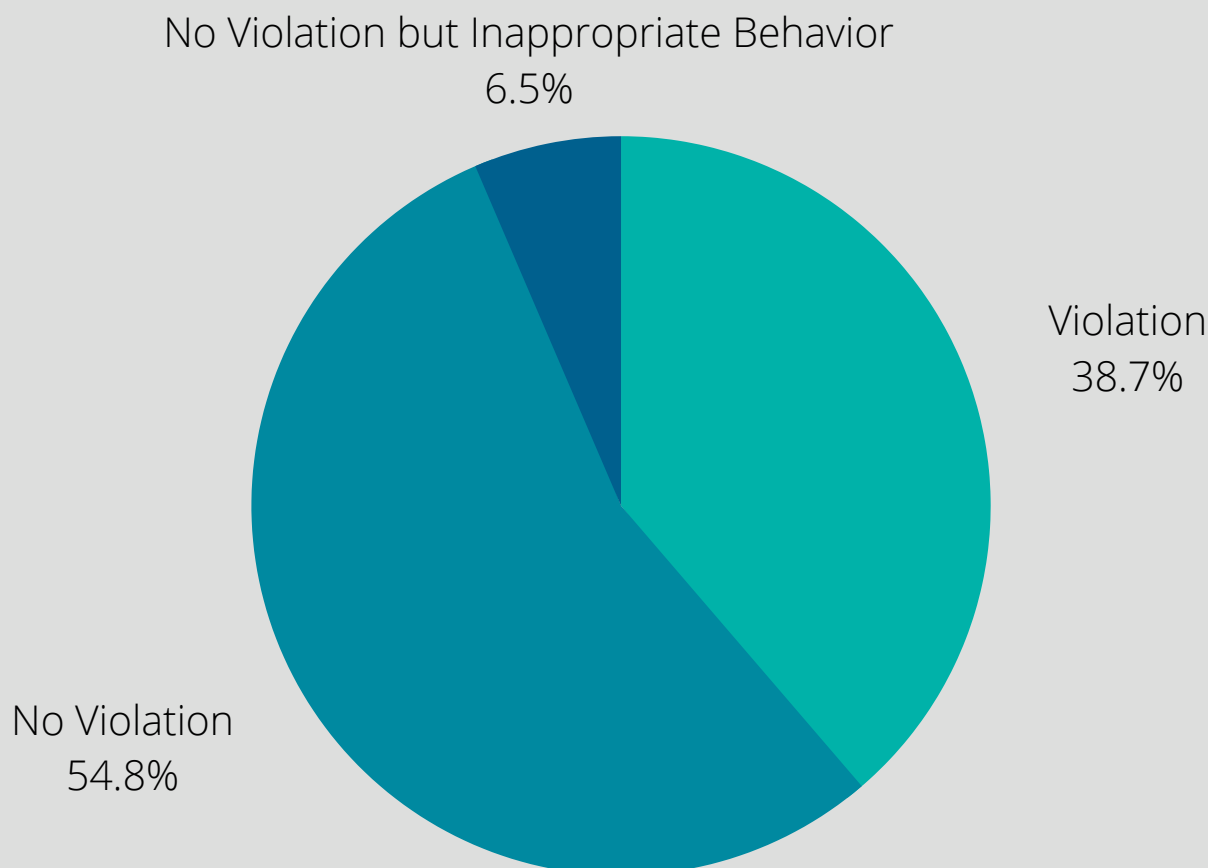
Of the 33 investigations conducted using the Sexual and Gender-Based Misconduct Process of the *Interim Employee Procedures* during the relevant time period:

- 31 have been completed with a determination regarding responsibility
- 1 was closed and the Formal Complaint dismissed, where the Complainant declined to file a Formal Complaint, the Title IX Coordinator filed a Formal Complaint to initiate an investigation, and during the process, the Respondent's employment ended and they are ineligible for re-hire at the University
- 1 was closed at complainant request following a legal settlement

Of the 31 investigations that have been completed to a determination regarding responsibility:

- 14 (45%) resulted in a finding of at least one Policy violation or other inappropriate behavior
 - 12 (38%) resulted in a finding of at least one Policy violation
 - 2 (6%) resulted in no Policy violations, but other inappropriate behavior found
- 17 (54%) resulted in no Policy violations or other inappropriate behavior found

Employee SGBM Process: Findings



More specific information about the outcome of each investigation is available in Appendix B.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

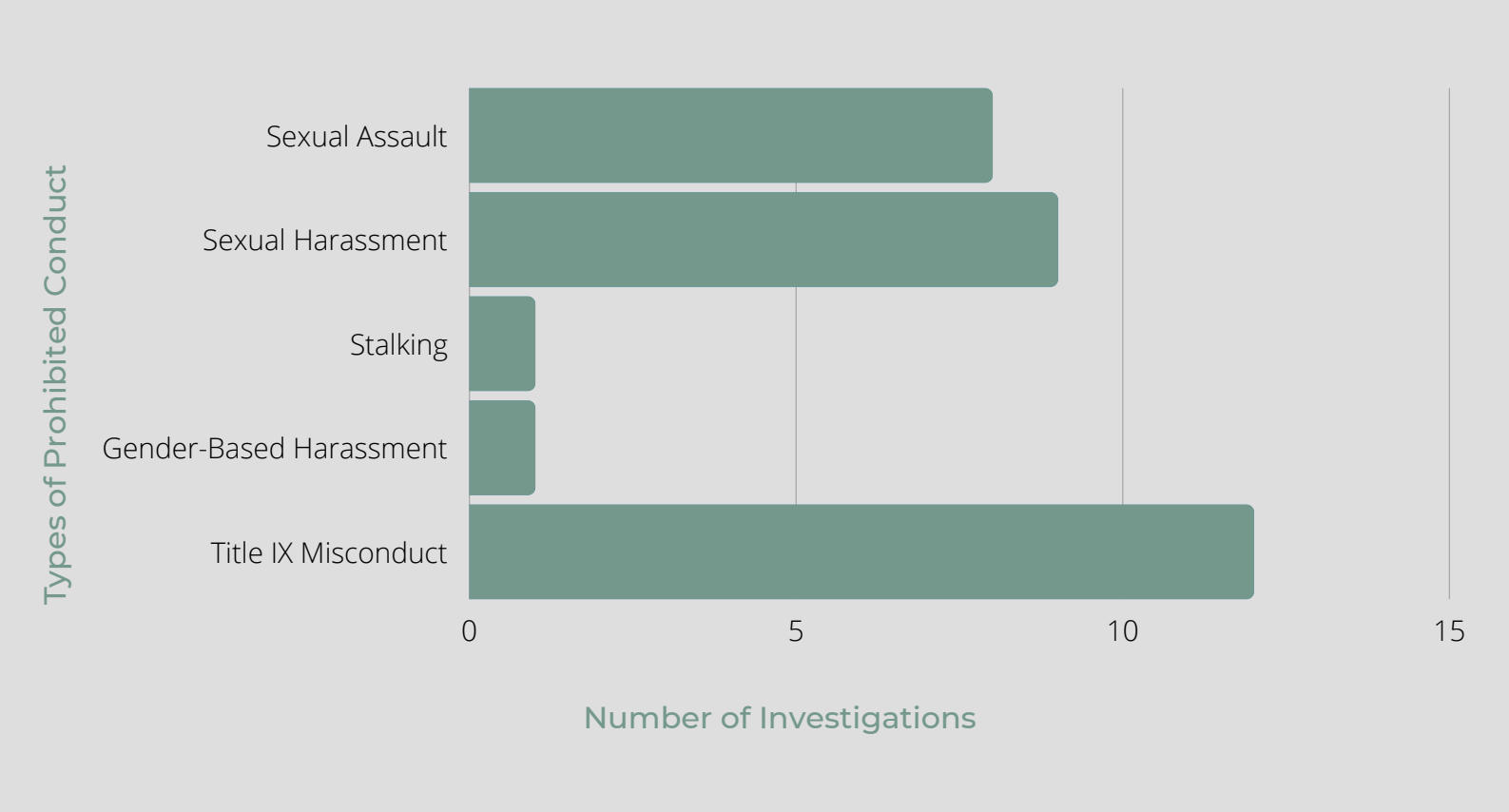
Title IX Misconduct Process

As noted in the preceding table, the Title IX Misconduct Process is used when an investigation involves one or more allegations that may constitute Title IX Misconduct. Accordingly, all 12 involved allegations of Title IX Misconduct, and:

- 8 involved allegations of Sexual Assault
- 9 also involved allegations of Sexual Harassment
- 2 also involved allegations of Gender-Based Harassment
- 1 also involved allegations of Stalking

None of the investigations conducted using the Sexual and Gender-Based Misconduct Process involved allegations of Sexual Exploitation, Stalking, Intimate Partner Violence, Sex and Gender-Based Discrimination, Retaliation, or Violation of Supportive Measures.

Employee Title IX Process: Types of Prohibited Conduct Alleged



REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Title IX Misconduct Process

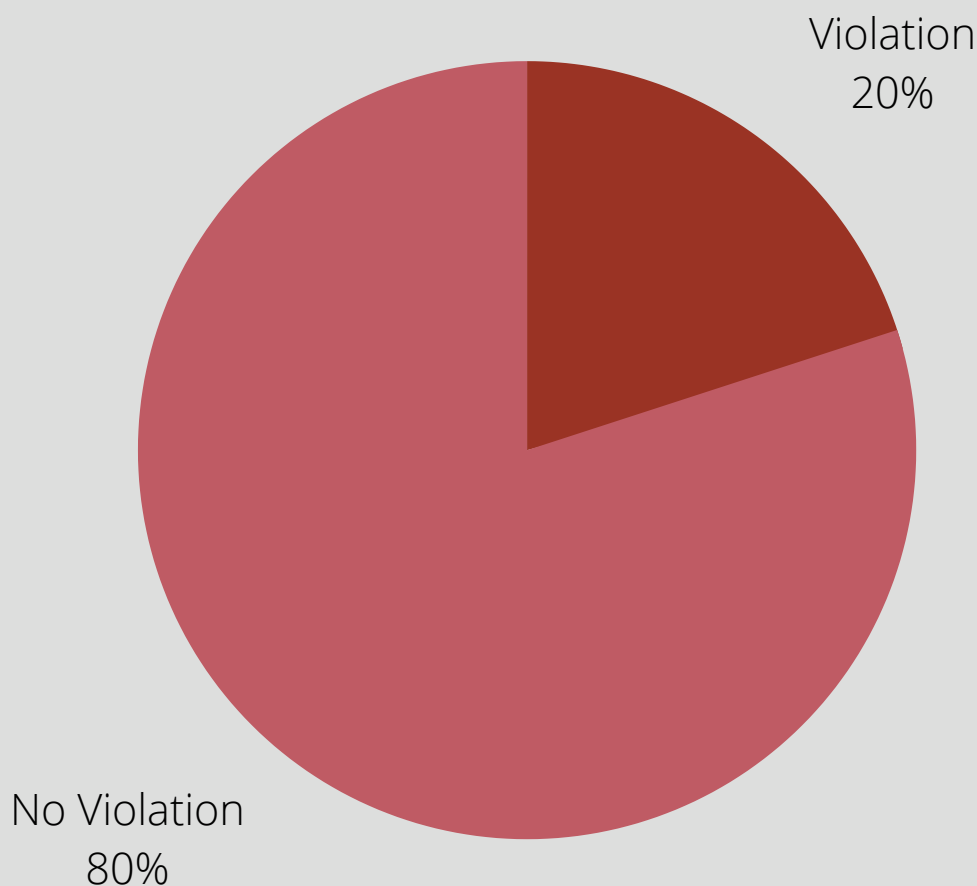
Of the 12 investigations conducted using the Title IX Misconduct Process of the Interim Employee Procedures during the relevant time period:

- 10 had been completed with a determination regarding responsibility at the time of data gathering for this report
- 1 was closed and the Formal Complaint dismissed by Complainant request, where the Respondent's employment ended and the Respondent is ineligible for re-hire at the University
- 1 investigation/hearing was proceeding

Of the 10 investigation/hearings that have been completed to a determination regarding responsibility:

- 2 (20%) resulted in a finding of at least one Policy violation
- 8 (80%) resulted in no Policy violations or other inappropriate behavior found

Employee Title IX Process: Findings



More specific information about the outcome of each investigation is available in Appendix B.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Title IX Misconduct Process - Appeals

Both the Complainant and the Respondent have the opportunity to appeal the determination regarding responsibility in the Title IX Misconduct Process.

Under the Policy, each appeal is considered by an external reviewer who may either uphold the finding, or remand the matter back to ECRT and/or the Hearing Officer, as appropriate, for further proceedings.

Of the matters reported during FY21 and completed under the Title IX Misconduct Process to date:

- One Complainant appealed a finding of no violation
 - The finding was upheld.
- One Respondent appealed a finding of a violation
 - A procedural deviation involving a procedural deviation was found and the finding was vacated.



More specific information about the appeals and outcomes is available in Appendix B.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Corrective Action

When a Respondent is found to have violated the Policy, the Respondent's supervisor(s) or other appropriate University administrator(s) determines corrective action that is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects.

In the 16 matters in which a Respondent was found to have engaged in a Policy violation or other inappropriate behavior through either investigative process under the Interim Employee Procedures, corrective action has been taken in 12 matters and the corrective action determination is pending in 4 matters. The chart below shows the corrective action implemented in the 12 cases. In some instances, the initial corrective action is a referral to a disciplinary review conference, or other applicable proceeding to determine further actions imposed. Where a disciplinary review conference has been completed and resulted in additional actions, the resulting actions are listed rather than the referral to a disciplinary review conference.

- In 3 instances, the Respondent's employment was terminated as a result of the violation finding, and the Respondent is ineligible for re-hire
- In 4 instances, the Respondent resigned or was terminated for other reasons during the process, and the corrective action implemented was ineligibility for re-hire
- In 1 instance, the behavior was addressed through a Performance Improvement Plan
- In 1 instance, the violation finding has been referred for a Disciplinary Review Conference and the outcome of the Disciplinary Review Conference is pending
- In 2 instances, the corrective action was a temporary unpaid disciplinary layoff
- In 1 instance, the Respondent received a written warning
- In 2 instances, educational requirements for imposed

For a more detailed table that demonstrates the specific combination of sanctions issued in each of the 12 cases where final sanctions have been determined, please see Appendix C.

The University generally imposes multiple types of corrective action when a Respondent is found responsible for violating the Policy. For a more detailed table that demonstrates the specific combination of corrective action taken in each of the cases where corrective action has been determined, please see Appendix B.

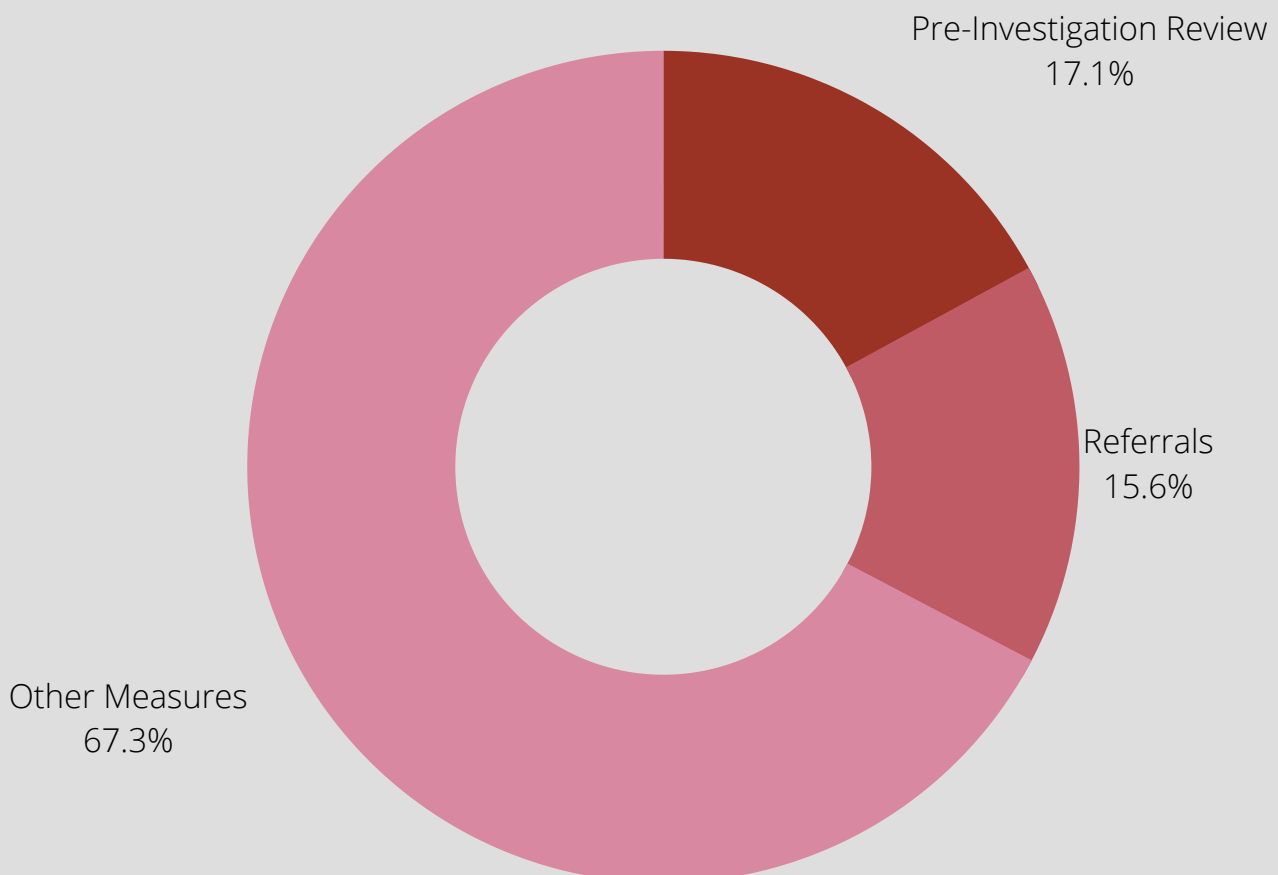
REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING EMPLOYEE RESPONDENTS

Other Responses to Reports Regarding Employees

In the 210 matters that did not involve a Formal Complaint:

- 36 reports resulted in a Pre-Investigation Review, which is when ECRT does not have sufficient information to initiate a formal Investigation, so ECRT takes significant additional steps to gather additional information in order to determine whether an investigation may be possible and appropriate, and ultimately, there is not enough information available or the information gathered during the review does not suggest a potential violation of the Policy
- 175 matters were consultations, meaning the report resulted in some other action, or insufficient information was available to proceed with additional action
 - 33 resulted in Referrals, for example, to Human Resources or other offices
 - 142 resulted in Other Measures taken (e.g., supportive measures)
- There were no cases in which a Complainant requested and the Title IX Coordinator approved the use of mediation.



REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING THIRD PARTY RESPONDENTS

Matters Involving Third Party Respondents

ECRT received 135 reports that either involved Respondents who are not University students or employees, or in which ECRT did not have sufficient information regarding the Respondent's identity or affiliation status to determine whether and how the Respondent may be affiliated.

ECRT reviewed and responded to each of these 135 reports with appropriate mechanisms available, based on the nature and extent of the information provided to ECRT, in order to: address the concerns; prevent Prohibited Conduct; and remedy any impact on individuals or the broader community including through supportive measures and other resources.

The following table shows action that may be generally available for the University to address concerns involving unaffiliated Respondents under particular circumstances.

REPORTS & RESPONSES THIS YEAR

MATTERS INVOLVING THIRD PARTY RESPONDENTS

RESPONDENT (R)	CIRCUMSTANCES OF INCIDENT	EXAMPLE	AVAILABILITY OF INVESTIGATION	AVAILABILITY OF SUPPORTIVE MEASURES	OTHER POSSIBLE ACTION
Previously but not currently affiliated	Occurred while R was affiliated	<ul style="list-style-type: none"> An alumnus contacts ECRT and reports that another alumnus sexually assaulted them while both were students; A former student contacted ECRT and alleges that a faculty member harassed them when they were a student, and the faculty member has since retired 	Typically, not feasible (limited to no ability to impose sanctions; may not have contact information to allow Respondent to participate in a fair and meaningful investigation)	Yes	Referral to law enforcement if criminal conduct is alleged
Previously but not currently affiliated	Occurred while R was not affiliated	A community member reports that a former UM student sexually assaulted them recently, and the former student graduated prior to the incident	No. R was not subject to the Policy	Yes	Referral to other entity (e.g. R's home institution, law enforcement, etc.)
Not affiliated	Occurred on campus or in a University Program or Activity	<ul style="list-style-type: none"> An unaffiliated third party reportedly engages in stalking of a University employee, including showing up to the employee's on-campus office; A speaker invited by a student organization to come to campus reportedly engages in gender-based harassment of students and staff while on campus for the event 	May or may not be feasible (limited to no ability to impose sanctions; may not have contact information to allow Respondent to participate in a fair and meaningful investigation)	Supportive measures and campus resources if C is participating in a University Program or Activity Resource referral whether C is affiliated with UM or not	Referral to other entity (e.g. R's home institution, law enforcement, etc.)
Not affiliated	Did not Occur in a University Program or Activity	<ul style="list-style-type: none"> A report that a student was sexually assaulted by an unaffiliated third party while home during winter break A report that an employee's unaffiliated partner is arrested for domestic violence 	May or may not be feasible (limited to no ability to impose sanctions; may not have contact information to allow Respondent to participate in a fair and meaningful investigation)	Supportive measures and campus resources if C is participating in a University Program or Activity Resource referral whether C is affiliated with UM or not	Referral to other entity (e.g. R's home institution, law enforcement, etc.)

EDUCATION & PREVENTION MEASURES

Education & 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.



EDUCATION & PREVENTION MEASURES

Employees

Extensive training efforts continue in order to educate the campus community about adjustments to the Policy, as well as reporting options and the various reporting responsibilities of University faculty and staff. All University and Michigan Medicine faculty and staff were required to complete an online training module related to sexual and gender-based discrimination and harassment, Cultivating a Culture of Respect, by December 31, 2019.

In addition, the University continued to strongly encourage all faculty and staff members to complete the Reporting Sexual and Gender-Based Misconduct training module. This online program focuses on identifying and understanding reporting obligations, as well as responding appropriately to student disclosures of misconduct. Faculty and staff members are also strongly encouraged to complete the Preventing Harassment and Discrimination, a robust online program addressing sexual assault, sexual harassment, stalking, and intimate partner violence.

In addition to online education, the University also offers a variety of in-person educational opportunities for faculty and staff, including sessions by programs within the Center for Learning and Teaching.

EDUCATION & PREVENTION MEASURES

Students

As in past years, all incoming undergraduate students are provided *Sexual Assault Prevention for Undergraduates* 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 used in-person training during FY20 prior to the covid-19 pandemic. During orientation, first-year students attend relevant programming presented by the University of Michigan Educational Theatre Company (UMetc).

In addition, the First Year Experience office provides a variety of programming and educational initiatives for all first year and transfer undergraduate students. During FY20, this included *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 participated 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.

EDUCATION & PREVENTION MEASURES

Students

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 continued to collaborate with SAPAC, UMetc, and other offices to continue a pilot of *Engendering Respectful Communities*, an in-person training program for graduate students, and this work continues to expand into FY21.

The University also continued 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 and transportation services such as Lyft to educate bar staff and drivers regarding sexual assault and bystander intervention. Through *Raise the Bar*, the University reaches beyond the campus community in its efforts to provide a safe and healthy environment for its students.

In addition to these efforts, there are a variety of in-person educational sessions conducted by ECRT, DPSS, OSCR, SAPAC, Office of the General Counsel, and others that are geared toward specific groups, including but not limited to, Residence Education staff, UHS care providers, and summer camp counselors.

CONCLUSION

For more information, including definitions, resources, and a more detailed overview of the processes used to address sexual misconduct concerns involving faculty, staff and third parties, please visit the University's Sexual Misconduct Reporting & Resources website.

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

Equity, Civil Rights and Title IX Office
2072 Administrative Services Building
1009 Greene Street, Ann Arbor, MI 48109-1432
(734) 763-0235
ecrtooffice@umich.edu



APPENDIX A

Appendix A contains the definitions of Prohibited Conduct in the Interim Policy on Sexual and Gender-Based Misconduct, in place between August 14, 2020, through the remainder of FY2021 and continuing until October 1, 2021 when the Interim Policy was replaced by the Policy on Sexual and Gender-Based Misconduct.

APPENDIX A

A. Consent

Some forms of Prohibited Conduct involve the issue of Consent. For purposes of this Policy, Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in Sexual Activity.

For purposes of this section, Sexual Activity refers to any conduct of a sexual nature for which Consent is required under this Policy (i.e., Sexual Contact, as defined below and behaviors identified in the definition of Sexual Exploitation, below, that require consent). A person who initiates Sexual Activity is responsible for obtaining Consent for that conduct. Consent cannot be obtained by Force or in circumstances involving Incapacitation, as defined below.

In evaluating whether Consent was given under this Policy, the issue is:

- Did the person initiating Sexual Activity know that the conduct in question was not consensual?
- If not, would a Reasonable Person who is unimpaired by alcohol or drugs have known that the conduct in question was not consensual?

If the answer to either of these questions is “Yes,” Consent was absent and the conduct is likely a violation of this Policy.

Consent is not to be inferred from silence, passivity, or a lack of resistance, and relying on non-verbal communication alone may not be sufficient to determine Consent.

Consent is not to be inferred from an existing or previous dating or sexual relationship. Even in the context of a relationship, there must be mutual Consent to engage in any Sexual Activity each time it occurs. In cases involving prior or current relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of Consent.

Consent to engage in a particular Sexual Activity at one time is not Consent to engage in a different Sexual Activity or to engage in the same Sexual Activity on a later occasion.

Consent can be withdrawn by any party at any point. An individual who seeks to withdraw Consent must communicate, through clear words or actions, a decision to cease the Sexual Activity. Once Consent is withdrawn, the Sexual Activity must cease immediately.

Given the inherent power differential in the context of a professional faculty- student, staff-student or supervisor-supervisee interactions, when the Respondent is the faculty member, staff member, or supervisor, the University will generally apply heightened scrutiny to an assertion of Consent.[1]

APPENDIX A

1. Force

Force includes the use of physical violence, threats, and/or coercion.

Physical violence means that a person is exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, strangling, and brandishing or using any weapon.

Threats are words or actions that would compel a Reasonable Person to engage in unwanted Sexual Activity. Threats may be implicit or explicit, but must be of such a nature that they would reasonably cause fear. Examples include threats to harm a person physically or to cause a person academic, employment, reputational, or economic harm.

Coercion is the use of an unreasonable amount of pressure that would overcome the will of a Reasonable Person. Coercion is more than an effort to persuade, entice, or attract another person to engage in Sexual Activity. When a person makes clear a decision not to participate in a particular Sexual Activity, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can become coercive. In evaluating whether Coercion was used, the University will consider: (1) the frequency, intensity, and duration of the pressure; (2) the degree of isolation of the person being pressured; and (3) any actual or perceived power differential between the parties in the context of their respective roles within the University.

2. Incapacitation

Incapacitation or Incapacitated means that a person lacks the ability to make informed, deliberate choices about whether or not to engage in Sexual Activity.

Consent cannot be gained by taking advantage of the Incapacitation of another, where the person initiating Sexual Activity knows or reasonably should know that the other is Incapacitated.

A person who is Incapacitated is unable to give Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that Sexual Activity was requested, suggested, initiated, and/or is taking place. A person may be Incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

When alcohol or other drugs are involved, Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily Incapacitated solely as a result of drinking or using drugs; the level of impairment must be significant enough to render the person unable to give Consent.

APPENDIX A

In evaluating Consent in cases of alleged Incapacitation, the University considers:

- Did the person initiating Sexual Activity know that the other party was Incapacitated?
- If not, would a Reasonable Person who is unimpaired by alcohol or drugs have known that the other party was Incapacitated?

If the answer to either of these questions is “Yes,” Consent was absent and the conduct is likely a violation of this Policy.

One is not expected to be a medical expert in assessing Incapacitation by drugs or alcohol. One must look for the common and obvious signs that show that a person may be Incapacitated, regardless of the amount of alcohol or drugs consumed. Although every individual may manifest signs of Incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady manner of walking, combativeness, emotional volatility, vomiting, or incontinence. A person who is Incapacitated may not be able to understand some or all of the following questions: Do you know where you are? Do you know how you got here? Do you know what is happening? Do you know whom you are with?

It is important to be cautious before engaging in Sexual Activity when any person involved has been drinking alcohol or using drugs. The use of alcohol or other drugs may impair an individual's ability to determine whether Consent has been sought or given. If there is doubt about an individual's level of intoxication, the safe thing to do is to refrain from engaging in Sexual Activity. Being impaired by alcohol or other drugs is not a defense to a failure to obtain Consent.

B. Sexual and Gender-Based Misconduct

1. Sexual Assault

Sexual Assault is Sexual Contact that occurs without Consent.

Sexual Contact includes:

- Intentional sexual touching of another person's breasts, buttocks, or genitals, whether clothed or unclothed (including intentional touching with ejaculate);
- Intentional sexual touching with one's breast, buttocks, or genitals (including touching with ejaculate);
- Making a person touch another person or themselves with or on any of these body parts; and/or
- Vaginal, oral, or anal penetration or contact by a penis, tongue, finger, or other object.

APPENDIX A

2. Sexual Exploitation

Sexual Exploitation is intentional conduct by which an individual takes or attempts to take non-consensual sexual advantage of another for one's own benefit, or to benefit anyone other than the one being exploited. Examples of Sexual Exploitation include doing any of the following:

- Intentionally or knowingly causing the Incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give Consent to Sexual Activity;
- Intentionally or knowingly engaging in voyeurism, including observing or allowing another(s) to observe private sexual or intimate activity (e.g., disrobing, bathing, toileting) without the Consent of the individual(s) being observed, whether from a hidden location or through electronic means (e.g., Skype or live-streaming of images);
- Intentionally or knowingly recording or photographing, or disseminating or posting images of private sexual or intimate activity and/or a person's intimate parts (including genitalia, groin, breasts and/or buttocks) without Consent;
- Intentionally or knowingly, without Consent, engaging in the recruitment, transportation, harboring, or receipt of a person(s) for the purposes of a commercial sex act(s);
- Intentionally or knowingly demanding financial compensation, Sexual Contact, or some other benefit under threat of disseminating or posting an image, video or other recording, of private sexual or intimate activity and/or a person's genitalia, groin, breasts, and/or buttocks
- Intentionally or knowingly exposing another person to a sexually transmitted infection without the other's knowledge; and/or
- Intentionally or knowingly, through one's actions, aiding or assisting another person in committing an act of Prohibited Conduct.

3. Sexual Harassment

Sexual Harassment is any unwelcome conduct of a sexual nature, whether verbal, graphic (e.g., pictures and videos), physical, or otherwise, when:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, education, living environment, or participation in any University Program or Activity;
- 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 Program or Activity; and/or

APPENDIX A

- Such conduct creates a hostile environment. A hostile environment exists when the unwelcome conduct of a sexual nature is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's participation in a University Program or Activity or creates an intimidating, hostile, offensive, or abusive environment for that individual's participation in a University Program or Activity. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including the nature, frequency, intensity, location, context, and duration of the behavior. Although a hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient.

This definition of Sexual Harassment addresses intentional conduct. It may also include conduct that results in negative effects even though such negative effects were unintended. Unwelcome conduct of a sexual nature constitutes Sexual Harassment if a Reasonable Person would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

Examples of conduct that may constitute Sexual Harassment include but are not limited to:

- Unwanted intentional touching such as kissing, hugging, or sexual touching that otherwise does not typically constitute Sexual Assault, defined above;
- Unwanted sexual advances, including repeated unwanted requests for dates, or repeated unwanted requests for sexual contact;
- Unwanted written, verbal, or electronic statements of a sexual nature, including sexually suggestive comments, jokes, or innuendos;
- Exposing one's genitalia, breasts, or buttocks, to another; and/or
- Touching oneself sexually for others to view.

4. Gender-Based Harassment

Gender-Based Harassment includes harassment based on actual or perceived sex, sexual orientation, gender identity, gender expression, or pregnancy. Such harassment may include acts of aggression, intimidation, or hostility, whether verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the behavior:

- Adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University Program or Activity;
- Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University Program or Activity; and/or

APPENDIX A

- Creates a hostile environment for that individual's participation in a University Program or Activity. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's participation in a University Program or Activity, or creates an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living, or participation in a University Program or Activity. Conduct must be deemed severe, persistent, or pervasive from both a subjective and objective standard. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including the nature, frequency, intensity, location, context, and duration of the behavior. Although a harassing hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient to constitute a hostile environment.

Examples of conduct that may constitute Gender-Based Harassment include but are not limited to:

- A series of written, verbal, or electronic statements that disparage a person based on their actual or perceived sex, gender identity, gender expression, sexual orientation, or pregnancy;
- Threats of violence toward an individual based on their actual or perceived identity; within a protected class, or toward an entire sex, gender identity, gender expression, sexual orientation, or pregnancy status as a group; and/or
- Defacing University property, or another individual's property, with symbols or language intended or understood by a Reasonable Person to disparage or threaten a person or group based on sex, gender identity, gender expression, sexual orientation, or pregnancy.
- This definition of Gender-Based Harassment addresses intentional conduct. It also may include conduct, which results in negative effects even though such negative effects were unintended. Unwelcome behavior constitutes Gender-Based Harassment if a Reasonable Person would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

In some cases, harassment may be based on multiple protected class bases included in the University's Nondiscrimination Policy Notice. In general, harassment involving protected class bases other than actual or perceived gender, sexual orientation, gender identity, or gender expression might fall under other University policies. For matters involving Student Respondents, this would include the Student Code of Conduct in effect at the specific campus. For matters involving Employee or Third Party Respondents, this could include, but is not limited to the Discrimination and Harassment Policy, SPG 201.89-1. Where reported harassment may be based on both sex or gender (including actual or perceived sex, sexual orientation, gender identity, gender expression or pregnancy) and another protected class basis (e.g., race, color, national origin, age, marital status, disability, religion, height, weight, or veteran status), OIE will consult with other University officials, as needed, determine whether the matter is most appropriately addressed under this Policy or another University Policy, or whether different aspects of the matter should be addressed separately under each.

APPENDIX A

5. Sex and/or Gender-Based Stalking

This Policy addresses stalking on the basis of sex or gender. Stalking occurs when an individual engages in a course of conduct directed at a specific person under circumstances that would cause a Reasonable Person[2] to:

- Fear for their own safety or the safety of others; or
- Suffer substantial emotional distress.

Course of conduct means two or more acts, including but not limited to, acts in which a person directly, indirectly or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.

Where a report of Stalking involves the alleged behavior of a Student, the Title IX Coordinator will determine if the reported conduct meets these criteria. Alleged stalking behavior by a Student that does not fall under this Policy may be addressed under the relevant Student Code of Conduct on the [Ann Arbor](#), [Dearborn](#), or [Flint](#) campus, as applicable.

Where a report of Stalking involves the alleged behavior of a faculty or staff member, or Third Party, OIE, in consultation with the applicable Human Resources unit, will determine if the reported conduct meets the above criteria. Alleged Stalking behavior by a faculty or staff member, or a Third Party may be addressed under the [Violence in the University Community Policy, SPG 601.18](#)

6. Intimate Partner Violence

Intimate Partner Violence collectively "IPV", includes Dating Violence and Domestic Violence.

The term "Dating Violence" means violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on the reporting party's statement and with a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but it is not limited to, sexual or physical abuse or the threat of such abuse.

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The term “Domestic Violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Michigan, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of Michigan.

7. Sex and Gender-Based Discrimination

Sex and Gender-Based Discrimination is conduct that is based upon an individual’s sex, sexual orientation, gender identity, gender expression, or pregnancy that:

- Adversely affects a term or condition of an individual’s employment, education, living environment, or participation in a University Program or Activity; and/or
- Is used as the basis for or a factor in decisions affecting that individual’s employment, education, living environment, or participation in a University Program or Activity.
- Some examples of conduct that may constitute prohibited Sex or Gender Based Discrimination may include, but are not limited to:
- Denying a person access to an educational or employment program based on that person’s sex, sexual orientation, gender identity, gender expression, or pregnancy;
- Denying raises, benefits, promotions, and/or other conditions of employment on the basis of a person’s sex, sexual orientation, gender identity, gender expression, or pregnancy; and/or
- Preventing any person from using University facilities or services because of that person’s sex, sexual orientation, gender identity, gender expression, or pregnancy.

8. Retaliation

Retaliation means an adverse action taken against a person for making a report or Formal Complaint of Prohibited Conduct; being alleged to have committed Prohibited Conduct; assisting or participating, or refusing to participate, in any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, or discrimination including adverse employment or educational actions that would discourage a Reasonable Person from engaging in activity protected under this Policy.

The exercise of rights protected under the First Amendment does not constitute Retaliation. Pursuit of civil, criminal, or other legal action, internal or external to the University does not constitute Retaliation.

APPENDIX A

Initiating disciplinary proceedings against an individual for making a materially false statement in bad faith in the course of a proceeding under the Policy does not constitute Retaliation under this Policy; however, a determination regarding responsibility, alone, is insufficient to conclude that any party made a materially false statement in bad faith.

9. Violation of Supportive Measures

Supportive Measures are discussed in more detail in Section IX. Failure to comply with Supportive Measures as required is a separate and independent violation of this Policy.

C. Title IX Misconduct

When reported behavior meets the following definition, it may constitute Title IX Misconduct and will be addressed under the procedures applicable to Title IX Misconduct, even if the behavior also may constitute Sexual and Gender-Based Misconduct. If at any point the University determines that the matter does not meet the definition of Title IX Misconduct, the matter will continue to be addressed under the Student Procedures or Employee Procedures, as applicable to Sexual and Gender-Based Misconduct.[3] Conversely, if the University is investigating reported Sexual and Gender-Based Misconduct and receives information that indicates the behavior at issue meets the definition of Title IX Misconduct, the matter will continue under the procedures applicable to Title IX Misconduct.

Title IX Misconduct:

- Occurs in the United States;
- Occurs in a University Program or Activity; and
- A Formal Complaint must also be filed.
- Is conduct on the basis of sex in which:
 - An Employee conditions the provision of a University aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
 - A Student, Employee, or Third Party engages in unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies another person equal access to a University Program or Activity; or
 - A Student, Employee, or Third Party engages in: Sex or Gender-Based Stalking (defined above); Dating Violence (defined above); Domestic Violence (defined above); or Sexual Assault as defined for purposes of the FBI's Uniform Crime Reporting (NIBRS) program, as below:

APPENDIX A

- Rape:
 - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the Consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be Complainants under this definition);
 - Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition, “private body parts” includes breasts, buttocks, or genitals, whether clothed or unclothed);
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of Consent.

[1] Separate and apart from the issue of Consent under the Policy, the University has prohibited many faculty-student relationships and staff-student relations under the Prohibitions Regarding Sexual, Romantic, Amorous, and/or Dating Relationships Between Teachers and Learners SPG 601.22 and Employee-Student Relationships SPG 601.22-1, respectively.

[2] For purposes of this definition of Sex and/or Gender-Based Stalking only, the definition of “Reasonable Person” is a Reasonable Person under similar circumstances and with similar identities to the Complainant.

[3] Consistent with Title IX and applicable law, the University uses the same procedures for all Prohibited Conduct allegations involving Student Respondents. In cases involving Employee Respondents, the University uses one of two procedures, both of which are designed to comply with Title IX and other applicable law while also promoting procedural efficiency and, to the extent practicable, consistency with other University policies, practices and procedures.

APPENDIX A

- Rape:
 - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the Consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be Complainants under this definition);
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 - To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of that person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition, “private body parts” includes breasts, buttocks, or genitals, whether clothed or unclothed);
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[1] Separate and apart from the issue of Consent under the Policy, the University has prohibited many faculty-student relationships and staff-student relations under the Prohibitions Regarding Sexual, Romantic, Amorous, and/or Dating Relationships Between Teachers and Learners SPG 601.22 and Employee-Student Relationships SPG 601.22-1, respectively.

[2] For purposes of this definition of Sex and/or Gender-Based Stalking only, the definition of “Reasonable Person” is a Reasonable Person under similar circumstances and with similar identities to the Complainant.

[3] Consistent with Title IX and applicable law, the University uses the same procedures for all Prohibited Conduct allegations involving Student Respondents. In cases involving Employee Respondents, the University uses one of two procedures, both of which are designed to comply with Title IX and other applicable law while also promoting procedural efficiency and, to the extent practicable, consistency with other University policies, practices and procedures.

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
Faculty (Emeritus)	Employee Procedures: Sexual and Gender-Based Misconduct Process (SGBM Process)	Sexual Harassment and/or Sexual Exploitation and/or Sexual Assault	Violation: The single incident was found to constitute Sexual Harassment and Sexual Exploitation, and was not found to constitute Sexual Assault	None	Not applicable	Pending
Faculty	Employee Procedures: SGBM Process	Sexual Assault	No violation	None	Not applicable	Not applicable
		Sexual Harassment	No violation			
Staff	Employee Procedures: Title IX Misconduct Process	Sexual Harassment and/or Title IX Misconduct	Complaint withdrawn: Respondent is no longer employed at UM and ineligible for future hire	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sex and Gender-Based Discrimination	No violation	Not applicable	Not applicable	Not applicable
Faculty	Employee Procedures: SGBM Process	Sexual Harassment	Violation	Not applicable	Not applicable	Ineligibility for re-hire

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/Closure	Appeals Filed	Appeals Outcome	Final Sanctions/Corrective Action
Staff	Employee Procedures: Title IX Misconduct Process	Title IX Misconduct and/or Sexual Assault	No violation	Complainant appealed the no violation finding	Finding upheld	Not applicable
		Title IX Misconduct and/or Sexual Harassment	No violation			
Student	Student Procedures: Investigative Resolution	Sexual Exploitation	Formal Complaint Dismissed: Specific circumstances prevented the University from gathering evidence sufficient to reach a determination on the underlying allegations of the Formal Complaint/Complainant stopped participating	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: Title IX Misconduct Process	Title IX Misconduct and/or Sexual Assault	No violation	None	Not applicable	Not applicable
		Sexual Harassment	No violation			

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/Closure	Appeals Filed	Appeals Outcome	Final Sanctions/Corrective Action
Student	Student Procedures: Investigative Resolution	Sexual Assault	No violation	None	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sexual Harassment	No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sexual Harassment	No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: Title IX Misconduct Process	Sexual harassment and/or Title IX Misconduct Gender-based harassment	No violation No violation	None	Not applicable	Not applicable (Issues of concern outside the Policy referred to unit for appropriate follow up)
Staff	Employee Procedures: SGBM Process	Sexual harassment	Violation	Not applicable	Not applicable	Referral to Disciplinary Review Conference (DRC); DRC resulted in a temporary disciplinary lay off
Staff	Employee Procedures: Title IX	Sexual harassment and/or	No violation	None	Not applicable	Not applicable

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
	Misconduct Process	Title IX misconduct				
Staff	Employee Procedures: SGBM Process	Sexual harassment Retaliation	Violation No violation	Not applicable	Not applicable	Termination ; Ineligibility for re-hire
Staff	Employee Procedures: SGBM Process	Retaliation Gender-Based Harassment (basis: sexual orientation) Gender-Based Harassment (basis: sex)	Violation No violation No violation	Not applicable	Not applicable	Conduct addressed via Performance Improvement Plan
Staff	Employee Procedures: SGBM Process	Sexual Harassment	Violation	Not applicable	Not applicable	Pending
Staff	Employee Procedures: Title IX Misconduct Process	Sexual Assault and/or Title IX Misconduct Sexual Harassment	No violation No violation	None	Not applicable	Not applicable

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
Student	Student Procedures: Investigative Resolution	Sexual harassment	No violation	None	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Gender-Based Discrimination Gender-Based Harassment	No violation No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sexual Harassment	Violation	Not applicable	Not applicable	Ineligibility for re-hire
Student	Student Procedures: Investigative Resolution	Sexual Assault Gender-Based Harassment and/or Sexual Harassment	Violation Violation	Respondent appealed the sanctions	Sanctions upheld	Expulsion; Employment prohibition; Transcript notation; No contact
Staff	Employee Procedures: SGBM Process	Intimate partner violence	Violation	Not applicable	Not applicable	Termination ; Ineligibility for re-hire
Student	Student Procedures: Investigative Resolution	Stalking Violation of	Violation Violation	None	Not applicable	Enrollment restriction; Employment restriction; Educational

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
		supportive measures				requirements
Staff	Employee Procedures: SGBM Process	Sexual Harassment Retaliation Gender-Based Harassment	Violation No violation Violation	Not applicable	Not applicable	Termination ; Ineligibility for re-hire
Staff	Employee Procedures: SGBM Process	Sexual harassment	Violation	Not applicable	Not applicable	Temporary disciplinary lay-off; Written warning; Educational requirements
Staff	Employee Procedures: SGBM Process	Sexual Harassment Retaliation	No violation No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sexual harassment	No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sexual harassment Retaliation Gender-Based Harassment	No violation No violation No violation	Not applicable	Not applicable	Not applicable

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/Closure	Appeals Filed	Appeals Outcome	Final Sanctions/Corrective Action
Staff	Employee Procedures: SGBM Process	Sexual Harassment Retaliation	No violation No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: Title IX Misconduct Process	Title IX Misconduct and/or Sexual Assault	Violation (Title IX Misconduct (inclusive of Sexual Assault))	None	Not applicable	Referral to DRC (DRC outcome pending)
Faculty	Employee Procedures: SGBM Process	Gender-Based Harassment and/or Gender-Based Discrimination	No violation, but inappropriate	Not applicable	Not applicable	Educational requirements
Student	Student Procedures: Investigative Resolution	Sexual Assault Sexual Assault Stalking Stalking and Violation of Supportiv	Violation Violation Violation (Acceptance of Responsibility) Violation (Acceptance of Responsibility)	Respondent appealed the sanctions	Sanctions upheld	Suspension greater than one year; Transcription notation; No Contact

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
		e Measures				
Staff	Employee Procedures: Title IX Misconduct Process	Sexual Assault and/or Title IX Misconduct Sex and Gender-Based Stalking and/or Title IX Misconduct	No violation No violation	None	Not applicable	Not applicable
Faculty	Employee Procedures: SGBM Process	Gender-Based Harassment; Sex and Gender-Based Discrimination	No violation	Not applicable	Not applicable	None
Staff	Employee Procedures: SGBM Process	Sexual Harassment Gender-Based Discrimination	No violation No violation	Not applicable	Not applicable	Not applicable
Student	Student Procedures: Investigative Resolution	Violation of Supportive Measures	No violation	None	Not applicable	Not applicable

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
Staff	Employee Procedures: SGBM Process	Sex and Gender-Based Discrimination	No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sexual harassment	No violation, but inappropriate	Not applicable	Not applicable	Ineligibility for re-hire
Staff	Employee Procedures: Title IX Misconduct Process	Sexual Assault and/or Title IX Misconduct	Pending	Pending	Pending	Pending
Staff	Employee Procedures: SGBM Process	Sexual Harassment	Formal Complaint dismissed: Respondent is no longer employed at UM and ineligible for future hire	Not applicable	Not applicable	Not applicable
Student	Student Procedures: Investigative Resolution	Sexual Harassment and/or Title IX Misconduct	Violation	None	Not applicable	No Contact' Educational Requirements
Student	Student Procedures: Investigative Resolution	Intimate Partner Violence	No violation	None	Not applicable	None

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
		Intimate Partner Violence Intimate Partner Violence Intimate Partner Violence				
Staff	Employee Procedures: Title IX Misconduct Process	Sexual Assault and/or Title IX Misconduct and/or Sexual Harassment	No Violation	Respondent - Finding	Procedural deviation found re: conflict of interest / bias: finding vacated	None
Staff	Employee Procedures: SGBM Process	Gender-Based Harassment	Violation	Not applicable	None	Pending
Staff	Employee Procedures: SGBM Process	Gender-Based Harassment	Violation	Not applicable	None	Pending
Student	Student Procedures: Investigative Resolution	Sexual Exploitation and/or Stalking and/or Sexual Harassment	Violation (Acceptance of Responsibility)	None	Not applicable	Suspension (greater than one year); Transcript Notation; No Contact; Educational Requirements

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
Staff	Employee Procedures: SGBM Process	Sex and Gender-Based Discrimination Retaliation	No violation No violation	Not applicable	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Sexual Harassment	No violation	Not applicable	Not applicable	Not applicable
Student	Student Procedures: Investigative Resolution	Intimate Partner Violence	No violation	None	Not applicable	None
Faculty	Employee Procedures: SGBM Process	Sexual Assault and/or Sexual Harassment	Violation	Not applicable	Not applicable	Ineligibility for re-hire
Student	Student Procedures: Investigative Resolution	Sexual Assault and/or Sexual exploitation	Formal Complaint Dismissed: Specific circumstances prevented the University from gathering evidence sufficient to reach a determination on the underlying allegations of the Formal Complaint -	Not applicable	Not applicable	Not applicable

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
			Complainant stopped participating)			
Staff	Employee Procedures: Title IX Misconduct Process	Sexual Harassment and/or Title IX Misconduct	No Violation	None	Not applicable	None
Staff	Employee Procedures: Title IX Misconduct Process	Sexual Harassment and/or Gender-Based Harassment Sexual Assault and/or Sexual Harassment and/or Title IX Misconduct Sexual Assault and/or Sexual Harassment and/or Title IX Misconduct	Violation Violation	None	Not applicable	Ineligibility for rehire
Student	Student Procedures: Investigative Resolution	Sexual Assault	Violation	None	Not applicable	Disciplinary probation, 1 year or less; Educational measures; No contact

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Respondent Affiliation	Process Used	Potential Policy Violations	Findings/ Closure	Appeals Filed	Appeals Outcome	Final Sanctions/ Corrective Action
Student	Student Procedures: Investigative Resolution	Intimate Partner Violence and/or Title IX Misconduct (13 allegations) Intimate Partner Violence (6 allegations)	Pending	Pending	Pending	Pending
Faculty	Employee Procedures: SGBM Process	Retaliation	No Violation	None	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Retaliation	Settled	None	Not applicable	Not applicable
Faculty	Employee Procedures: SGBM Process	Retaliation	No Violation	None	Not applicable	Not applicable
Staff	Employee Procedures: SGBM Process	Retaliation	No Violation	None	Not applicable	Not applicable