

## **Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Procedure**

Reference Documents: SBHE Policy Manual, Section 520; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30,026; North Dakota Century Code (N.D.C.C.) Ch. 12.1-20; N.D.C.C. § 15-10-56 (3)(a); N.D.C.C. ch 44-04; MSU *Code of Student Rights and Responsibilities*; MSU Employee Code of Conduct, M520.01 Sexual Misconduct and Sexual- and Gender-Based Policy

The University maintains prohibitions against harassment that is not sexual- or gender-based, including those found at M601.1.1 and M601.1.3<sup>1</sup> and in the *Code of Student Rights and Responsibilities*<sup>2</sup>.

Students or employees who violate the Title IX/Sexual Misconduct and Sexual- and Gender-Based Policy (MSU Policy M520.1) may face disciplinary action, up to and including suspension, dismissal, or termination from MSU. Third parties who commit sexual- or gender-based misconduct may have their relationships with the University terminated and/or their privileges of being on MSU's campus withdrawn.

MSU uses the procedures described herein to investigate and adjudicate allegations of sexual- and gender-based misconduct against a student or employee and to impose disciplinary sanctions against students or employees found responsible for violating the Title IX/Sexual Misconduct and Sexual- or Gender-Based Discrimination Policy. These procedures provide for prompt and equitable responses to reports of sexual- and gender-based misconduct. The procedures provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a policy violation has occurred. MSU applies the preponderance of the evidence standard when determining whether a policy has been violated. Preponderance of the evidence means that it is more likely than not that a policy violation occurred. Respondents are presumed not responsible until and unless there is a determination of responsibility at the conclusion of the grievance process.

The specific procedures for reporting, investigating, and resolving complaints of sexual- or gender-based misconduct are not based upon the responding party's relationship to the University and will be addressed in a similar manner.

---

<sup>1</sup> at <https://mayvillestate.edu/about-msu/consumer-information/university-policy-manual/>

<sup>2</sup> at <https://mayvillestate.edu/about-msu/consumer-information/#resources>

## Reporting

Any person may report sex discrimination including sexual harassment (whether or not the person making the report is the victim of the alleged sexual harassment or sex discrimination). Such report may be made in person, by mail, by telephone, through the University's reporting portal, or by email using the Title IX Coordinator's contact information, or by any other means which results in the Title IX Coordinator receiving the report, regardless of the time of day.

The role of the Title IX Coordinator is to ensure compliance with federal and state regulations regarding Title IX. The Title IX Coordinator oversees the University's investigation of, response to, and resolution of all reports of sexual and gender-based misconduct. The Title IX Coordinator organizes the mandatory training for individuals involved in the University's sexual and gender-based misconduct investigation and grievance process, which includes the handling of complaints, grievance procedures, and protecting confidentiality. The Title IX Coordinator also assists students and employees in understanding their rights, responsibilities, and options for reporting potential misconduct and receiving support services. Inquiries or concerns relating to Title IX or sexual and gender-based misconduct may be referred to the University's Title IX Coordinator:

Dr. Andrew Pflipsen  
Vice President for Student Affairs and Title IX Coordinator  
Mayville State University  
Old Main Building, 112C  
330 Third St NE  
Mayville, ND 58257  
701-788-4770  
[andrew.pflipsen@mayvillestate.edu](mailto:andrew.pflipsen@mayvillestate.edu)

## Privacy and Confidentiality

MSU is committed to protecting the privacy of all individuals involved in an incident reported under the Title IX/Sexual Misconduct and Sexual- and Gender-Based Policy. The identity of any individual who has made a report or complaint of sex discrimination or sexual harassment, any complainant, any respondent, and any witness, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder, shall be confidential. Every effort will be made to respect and safeguard the privacy interests involved in a manner consistent with the need for a careful assessment of the allegations and any necessary steps to eliminate the misconduct, prevent its recurrence, and address its effects.

Privacy generally means that information related to a reported incident will only be shared with a limited number of individuals that "need to know" the information in order to assist in the review, investigation, and/or resolution of the incident. While not bound by confidentiality, these

individuals will be discrete and respect the privacy of all individuals involved in the process. If a decision is made to pursue disciplinary action against a responding party, information related to the report will be shared with them. When the parties involved are students, information regarding a reported incident will not be shared with either party's parents or guardians unless the party has signed a waiver that complies with FERPA<sup>3</sup> or there is an articulable threat to the health or safety of the party or other individuals. MSU will share the results of an investigation and the applicable sanctions to reporting parties when the incident involved violent crimes or sexual misconduct. The information that will be shared includes, but is not limited to:

- The name of the accused student
- Any MSU policy that was broken and key findings that support the conclusion
- A description of disciplinary action taken

### **Investigation & Resolution Procedures**

#### **Complainant Rights**

Complainant's rights under the Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy include:

1. You have the right to be treated with dignity and respect
2. You have the right to experience a safe living, educational, and work environment.
3. You have the right to be informed of available on- and off-campus counseling and support services.
4. You have the right to work, residential, and academic accommodations, as necessary.
5. You have a right to have an advisor of your choice present at any meeting or proceeding held as part of the University's process to resolve a complaint. Your advisor may be an attorney.
6. You have the right to a fair, impartial investigation, and resolution of a complaint that is in substantial accordance with the University's procedures for investigating and resolving reports of prohibited conduct.
7. You have the right to be free from retaliation.
8. You have the right to have a complaint investigated by individuals who receive adequate training.
9. You have the right to challenge an individual designated by the University to investigate and/or resolve a complaint based on conflict of interest. This includes the investigator and individuals involved in imposing any sanctions.
10. You have the right to review all evidence and witness statements collected as part of the investigation of a complaint.
11. You have the right to participate during a live hearing to resolve your complaint.
12. You have the right to not have irrelevant prior sexual history discussed during the investigation and resolution of a complaint.
13. You have the right to withdraw your complaint any time prior to the investigator deciding whether the responding party violated University policy.

---

<sup>3</sup> See <http://www.mayvillestate.edu/files/6913/5965/3270/FamilyEducationalRightsandPrivacyAct.pdf>

14. You have the right to promptly notified in writing of the outcome of a complaint.
15. You have the right to meet with the University's Title IX Coordinator at any point in the process.
16. You have the right to appeal the investigator's findings and/or any sanctions imposed by the University.
17. You have the right not to be discouraged by University officials from reporting an incident of gender-based harassment, sexual misconduct (including sexual assault), dating violence, domestic violence, sexual harassment, or from talking to law enforcement.
18. You have the right to request supportive measures such as a no contact directive be put in place and enforced during the resolution of a complaint.

### **Respondent Rights**

Respondent's rights under Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy include:

1. You have the right to be treated with dignity and respect.
2. You have the right to initially be presumed not responsible for violating University policy and for an outcome based solely on the evidence presented during the investigation and resolution of a complaint.
3. You have the right to be informed of available on- and off-campus counseling and support services.
4. You have the right to receive a written summary of the allegations made against you, the range of potential policy violations, and the range of potential disciplinary sanctions.
5. You have the right to have an advisor of your choice present at any meeting or proceeding held as part of MSU's process to resolve a complaint. Your advisor may be an attorney.
6. You have the right to have a complaint investigated and resolved in a fair and impartial manner that is in substantial accordance with the University's procedures for investigating and resolving reports of prohibited conduct.
7. You have the right to be free from retaliation.
8. You have the right to challenge an individual designated by MSU to investigate and/or resolve a complaint based on conflict of interest. This includes the investigator and individuals involved in imposing any sanctions.
9. You have the right to have a complaint investigated by individuals who receive adequate training.
10. You have the right to review all evidence and witness statements collected as part of the investigation of a complaint.
11. You have the right to participate in a live hearing to resolve the complaint.
12. You have the right to not have irrelevant prior sexual history discussed during the investigation and resolution of a complaint.
13. You have the right to be promptly notified in writing of the outcome of a complaint.

14. If you are found responsible for violating this policy, you have the right to submit a statement and have it considered during the determination of sanctions.
15. You have the right to meet with the University's Title IX Coordinator at any point in the process.
16. You have the right to appeal the investigator's findings and/or any sanctions imposed by the University.

### **Presumption of Non-Responsibility and Participation by the Parties**

The sexual- and gender-based misconduct investigation is a neutral fact gathering process. The role of the investigators is simply to determine in a neutral manner what happened. The University's investigation is not a criminal investigation, rather the purpose of the process is to determine if University policy has been violated by the respondent. The respondent is presumed to be not responsible; this presumption may be overcome only where the University concludes that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the respondent violated Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy. If an individual refuses to participate in cross-examination during the live hearing, no statements made by the individual can be used in making a determination of the case.

### **Advisors**

Parties to a grievance process must be afforded the opportunity to select the advisor of their choice to assist them during the proceeding, including during the live hearing.

If a party does not choose an advisor, the institution shall provide the party with an advisor free of charge. The advisor will be made available to each party for the full duration of the grievance process.

MSU is not required to provide an attorney to act as an advisor but appointed advisors will be provided with appropriate training to ensure an understanding of the grievance process, though the same training provided to Title IX Coordinators, decision-makers, and investigators is not required.

MSU is not required to attempt to create an equality of advisors between the parties, particularly where one party selects an outside advisor, but MSU will endeavor to seek parity of advisors where the institution provides advisors to both parties.

### **Timeframe**

The grievance process shall be carried out using reasonably prompt time frames, including time frames for filing and resolving appeals. Notwithstanding, temporary delays or extensions of the time frames must be offered for good cause, with written notice to the parties setting forth the cause for action. Good cause may include considerations such as the absence of a party, a party's

advisor, or a witness, concurrent law enforcement activity, or the need for accommodations for language or disability.

The Title IX Coordinator will periodically notify all parties in writing during the investigation process regarding updates and timeframes.

### **Preliminary Investigation**

Upon receipt of a report of sexual or gender-based misconduct, the Title IX Coordinator (or designee) will make an initial assessment of the reported information. During the preliminary investigation, the Title IX Coordinator will:

- Assess the complainant's safety and well-being and offer the University's immediate support and assistance.
- Discuss the availability of supportive measures.
- Inform the complainant that supportive measures are available with or without the filing of a formal complaint.
- Explain the process of filing a formal complaint.

No disciplinary sanctions or other actions that are not supportive measures may be imposed against a respondent prior to the conclusion of the grievance process.

### **Supportive Measures**

During or after a preliminary investigation of the incident, MSU may take reasonable and appropriate measures to protect the impacted individuals and facilitate their continued access to University education and employment programs and activities. Supportive measures may be put in place during the investigative phase of the sexual and gender-based misconduct process if determined to be necessary for the health or safety of the parties or the MSU community. Parties may also request that supportive measures be implemented during the process. All supportive measures will be removed upon the completion of the investigation unless there is a finding of responsibility and the supportive measures become part of the sanction. The Title IX Coordinator may consult with others such as campus security or MSU's CARE Team to make an immediate assessment of any risk of harm to the parties, other individuals, or to the campus community and will take the necessary steps to address those risks. If a decision is reached to take an action regarding supportive measures that impacts a respondent, the Title IX Coordinator will notify the respondent in writing. The Title IX Coordinator (or designee) retains the discretion to impose and/or modify a supportive measure based on all available information. Supportive measures may be available regardless of whether a complainant pursues a complaint or investigation under this policy but will be determined on case by case basis. The University will maintain the privacy of any supportive measures provided under this policy to the extent practicable:

Supportive measures may include, but are not limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modification of work-study or class schedules
- Campus escort services
- Mutual no-contact orders between parties
- Alternate work or housing locations
- Leaves of absences
- Increased security or monitoring of areas of campus

### **Emergency Removal from Campus**

MSU may remove a respondent from the education program or activity on an emergency basis, provided that the institution determines based on an individualized safety and risk analysis, that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

MSU will provide the respondent with notice and opportunity to challenge the decision immediately following the removal. All appeals regarding emergency removal shall be submitted in writing to the Vice President of Student Affairs within 24 hours of receiving notice of removal.

### **Notice of Investigation and Rights and Responsibilities Meeting**

Once a formal complaint is received by the University, MSU will provide the following written notice to both parties:

1. Notice of the grievance process.
2. Notice of the allegations of sexual harassment including:
  - a. Sufficient details known at the time and with sufficient time to prepare a response, including but not limited to, the names of the parties, the conduct allegedly constituting sexual harassment, and the date and location of the alleged conduct.
3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process.
4. A statement that the parties may have an advisor of their choice, who may be an attorney, and may inspect and review evidence. The statement will also indicate that if the party does not have an advisor of their choice, MSU will appoint an advisor to assist with cross-examination for the live hearing.
5. Notice of the MSU *Code of Student Rights and Responsibilities* provision that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If during the grievance process, additional allegations are added to the investigation which were not included in the initial notice, the University will provide notice of the additional allegations to the parties.

### **Consolidation of Formal Complaints**

MSU may consolidate formal complaints against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### **Mandatory Dismissal**

MSU must dismiss the formal complaint if, at any time during the investigation or the hearing it is determined that:

- a. The conduct alleged would not constitute sexual harassment as defined in MSU's policy even if proved.
- b. The conduct alleged did not occur in an education program or activity.
- c. The conduct did not occur against a person in the United States.

If the formal complaint is subject to mandatory dismissal, MSU may act under another provision of the Code of Conduct without that action constituting retaliation under the policy and/or procedure.

### **Permissive Dismissal**

MSU may dismiss the formal complaint if, at any time during the investigation or hearing it is determined that:

- a. A complainant notifies the Title IX Coordinator, in writing, that the complainant would like to withdraw the formal complaint, or any allegations contained in the formal complaint.
- b. The respondent is no longer enrolled at or employed by MSU.
- c. Specific circumstances prevent MSU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the formal complaint.

In the event a formal complaint is permissively dismissed, MSU will consult with legal counsel prior to taking action under another provision of its code of conduct to avoid taking actions constituting retaliation.

### **Notice of Dismissal**

Upon a dismissal, MSU must promptly send written notice of the dismissal and reasons therefore to both parties simultaneously. Parties will have the opportunity to appeal.

**Investigation**

MSU is required to investigate every formal complaint unless the complaint is subject to dismissal.

At all times, the burden of proof and the burden of gathering evidence sufficient to make a determination regarding responsibility rests on the University and MSU may not seek to shift that burden to the parties. MSU may not restrict the parties' ability to discuss the allegations or to gather or present relevant evidence.

At all times, MSU will operate under the assumption the respondent is not responsible for the alleged conduct until and unless there is a determination of responsibility at the conclusion of the grievance process.

MSU may not access, consider, disclose, or otherwise use a party's medical records made or maintained in connection with the provision of treatment to the party, unless voluntary, written consent to do so is provided by the party (or the party's parent or next of kin, if the party is not eligible or able to provide consent).

MSU may not require, allow, rely upon, or otherwise use evidence that constitutes, or questions that seek disclosure of, information that protected under a legally recognized privilege status, unless that privilege is waived.

MSU must provide each party written notice of the date, time, location, participation, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time to prepare.

Each party must be afforded an equal opportunity to have others present during any grievance proceeding, including their advisor, though MSU may establish restrictions regarding the extent to which the advisor may participate in the proceedings, so long as the restrictions apply equally to both parties and comply with the written policy. These restrictions if any will be announced prior to the live hearing. Such restrictions will be made available in writing to both parties and their advisors.

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation related to the allegations raised in a formal complaint, including any evidence upon which MSU does not intend to rely in reaching a determination of responsibility and any inculpatory or exculpatory evidence, from whatever source.

At least ten (10) days prior to the preparation of the investigative report, MSU will provide each party and their advisor the evidence obtained in the investigation in an electronic format or hard copy. The parties may submit a written response to the evidence, which the investigator shall consider prior to the completion of the investigative report.

At the conclusion of the investigation, the investigator will create an investigative report that fairly summarizes the relevant evidence. At least ten (10) days prior to the hearing, the investigator will send a copy of the investigative report to each party and their advisor for review and written response.

### **Final Investigative Report**

Upon completion of the fact-gathering process described above, the investigator(s) will review the investigative summary and forward the report to the Title IX Coordinator.

### **Live Hearing**

The grievance process provides for a live hearing after the completion of the investigative report. All evidence obtained by the investigator(s) as part of the investigative process must be made available to the parties and the decision-maker at the live hearing.

The live hearing will be presided over by the decision-maker. The decision-maker will be appointed by the Title IX Coordinator prior to the live hearing. The Title IX Coordinator may not appoint him/herself as the decision-maker. The Title IX Coordinator may appoint an NDUS employee or private counsel holding appropriate credentials to reach a decision. Mayville State decision-makers undergo annual training to ensure compliance with federal regulations.

At the request of either party, the hearing must be conducted with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or witness answering questions. Hearings may be conducted with all parties physically present in the same geographic location, or any parties, witnesses, and other participants may appear at the live hearing virtually, so long as the participants are able to simultaneously see and hear each other.

The decision-maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those that question credibility. This cross-examination must be conducted directly (the questions may not be asked by the decision-maker), orally, and in real time by the party's advisor and never by a party personally.

- a. Prior to a party or witness answering a question, the decision-maker will rule on the relevance of the question and explain any decision to exclude a question as not relevant.
- b. Decision-makers may request, but may not require, that questions by the parties be submitted in advance, to permit the decision-maker to rule on the relevance of the questions. The decision-maker will inform each party and their advisor prior to the live hearing as to whether or not questions should be submitted in advance.
- c. The University may otherwise limit the extent to which the party's advisor may participate in the hearing by policy but should consult with legal counsel prior to

imposing significant limitations. Such limitations may include: objections to evidence and questions and decorum procedures.

### *Cross Examination*

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker must not rely on any statement of the party or witness in reaching a determination regarding responsibility. Decision-makers may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence or refusal to answer cross-examination or other questions. There are no exceptions to this exclusion as there are in legal proceedings.

### *Rape Shield*

Prior or subsequent conduct of the respondent party may be considered in determining pattern, knowledge, intent, or motive. The sexual history of a complainant or respondent will never be used to prove character or reputation. Information related to the prior sexual history of either of the parties is generally not relevant to the determination of a sexual and gender-based misconduct policy violation except as described above.

The determination of relevance of pattern information will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar gender or sexual based misconduct. Such prior or subsequent conduct may also constitute a violation of other University policy, in which case it may be subject the respondent to additional sanctions.

Questions and evidence about the complainant's sexual predisposition or sexual history are not relevant, unless such questions are offered to prove that someone other than the respondent committed the alleged conduct, or regard specific incidents of the prior sexual behavior with respect to the respondent and are offered to prove consent.

The decision-maker has the discretion to determine relevance of any offered information and to include or exclude certain types of information.

All live hearings will be recorded. Mechanisms of recording include audio, audio-visual, or transcript of live hearing. All recordings will be made available to both parties and advisors for review.

### *Hearing Decorum*

Decision-makers may enforce rules to ensure hearing decorum, such as requiring respectful treatment, specifying any objection process, governing timing of hearing, length of breaks, etc. The decision-maker will set rules for decorum prior to each live hearing. Failure to adhere to the rules decorum may result in a delay of the hearing and/or removal of a party's advisor. The Title

IX Coordinator will appoint an advisor to conduct cross-examination in the event a party's advisor is removed.

### **Hearing Decision**

The role of the decision-maker is to determine whether a violation of the sexual and gender-based misconduct policy occurred. After the conclusion of the hearing, the decision-maker will make a determination of responsibility. The respondent will only be found responsible when there is sufficient cause based on preponderance of the evidence. The Title IX Coordinator is not involved in the hearing decision or determining sanctions.

After the conclusion of the live-hearing, the decision-maker must issue a written determination regarding responsibility, which must include:

- a. Identification of the allegations potentially constituting sexual harassment.
- b. Description of the procedural steps from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held.
- c. Findings of fact supporting the documentation.
- d. Conclusions regarding the application of the institution's code of conduct to the facts.
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies will be provided to the complainant.
- f. The procedures, timelines, and permissible bases for the complainant and respondent to appeal.

The written determination must be provided to the parties simultaneously. The determination regarding responsibility becomes final either on the date that notice of the result of any appeal is provided to the parties, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

### **Remedies**

Remedies offered after the conclusion of the grievance process on a finding of responsibility must be designed to restore or preserve equal access to the education program or activity. Remedies need not be non-disciplinary or non-punitive, and need not avoid burdening the respondent.

### **Sanctions**

A respondent party found responsible of sexual or gender-based misconduct shall be subjected to the imposition of the following sanctions and conditions, which may be imposed alone or in conjunction with one or more additional sanctions and/or conditions. Disciplinary sanctions imposed after the conclusion of the grievance process shall be assessed pursuant to the University's Code of Conduct, *Code of Student Rights or Responsibilities*, or other employee

guide or handbook which sets possible disciplinary sanctions for violations of Title IX or Code of Conduct and shall be proportional to the determination of responsibility. MSU's Disciplinary

Status Sanctions for persons include:

- a. Censure.
- b. Disciplinary Probation.
- c. Deferred Suspension.
- d. Suspension
- e. Dismissal.
- f. Recommendation to the Vice President for Academic Affairs to withhold or rescind a degree.

With each sanction, restorative actions, conditions, and/or terms may also be assigned. In addition, notification may be given to other university officials as necessary. Active Disciplinary Sanctions include, but are not limited to:

- a. University/educational service.
- b. No Contact Directive.
- c. A Referral to counseling services, substance awareness, health services, or other appropriate offices or local agencies.
- d. Participation in an assigned activity or project
- e. Loss of, limited, or restricted access or student privileges
- f. Restitution

MSU employees found responsible for violating provisions under the Sexual Harassment policy may be subject to appropriate disciplinary action up to an including termination.

The decision-maker will issue a written decision within ten business days from the conclusion of the hearing. Both parties will be notified simultaneously.

### **Appeals**

Both/All parties may appeal a determination regarding responsibility or the dismissal of a formal complaint (or any allegations with the formal complaint). The following may form the basis of an appeal:

- a. Procedural irregularity that affected the outcome of the grievance process
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could have affected the outcome of the matter.
- c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent, that affected the outcome of the grievance process.

Upon receipt of an appeal, MSU will:

- a. Notify the non-appealing party(-ies) in writing when an appeal is filed and implement appeal procedures equally for both parties.
- b. Ensure that the appeal decision-maker is not the same person as the decision-maker who reached the determination regarding responsibility or dismissal, or the Title IX Coordinator.
- c. Give both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome.
- d. Issue a written decision describing the result of the appeal and the rationale for the result.
- e. Provide the written decision to both parties simultaneously.

In the event that a disciplinary sanction of suspension or expulsion of a student is imposed by the decision-maker, MSU shall provide a method of reviewing an appeal from a determination regarding responsibility or dismissal for a period of at least one year following the original decision.

If it is determined that ground(s) for appeal is valid, the appeals officer may:

- a. Modify the decision. The appeals officer may overturn all or some of the decision regarding violations of the Sexual Harassment Policy and/or modify or vacate any sanction.
- b. Order a new hearing. The appeals officer may void all or some of the decision and call for a new hearing on all or some of the issue originally considered.
- c. Uphold the decision.

The appeals officer will render a written decision within ten (10) days of which the appeal was received. The appeals officer decision is final. The written documentation will be forwarded to all parties by the Title IX Coordinator.

### **Recordkeeping**

MSU shall retain, for a period of seven years, records of:

- a. Each sexual harassment investigation, including any determination regarding responsibility; any audio recording, audio-visual recording, or transcript; any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant
- b. Any appeal and the result therefrom
- c. Any informal resolution and the result therefrom
- d. All materials used to train Title IX Coordinators and Deputies, investigators, and decision-makers, which the institution must make available on its website.

MSU must create and maintain for seven years, records of any actions, including records of supportive measures, taken in response to a report or formal complaint of sexual harassment. In

each instance, MSU must document the basis for its response was not deliberately indifferent, and document that it took supportive measures, or if supportive measures were not provided, an explanation of why such a response was not clearly unreasonable in light of the known circumstances.

**Adopted: August, 2020**

**Sponsored by: Vice President for Student Affairs**