



EMU Board of Regents Policy

Section: 03 Employment, Affirmative Action and Civil Rights
Title: BOR 03.07.07 Eastern Michigan University: Sexual
Misconduct and Sex-based Discrimination Policy
Last Revised: 12/08/2022
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I. INTRODUCTION & TITLE IX COORDINATOR CONTACT INFORMATION

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Where the date of the Prohibited Conduct precedes the effective date of this policy, the definitions of prohibited conduct in existence at the time of the alleged incident(s) will be used. The procedures under this policy, however, may be used to investigate and resolve all reports made on or after the effective date of this policy, regardless of when the incident(s) occurred.

III. SCOPE OF POLICY

A. To Whom This Policy Applies. This policy is applicable to Students, Employees, and Third Parties.

1.

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4. **Domestic Violence** is violence constituting a misdemeanor or felony, committed on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant under the domestic or family violence laws of the State of Michigan.
5. **Dating Violence** is violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition: Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
6. **Stalking** occurs when a person engages in a course of conduct on the basis of sex, directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience 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 peace of mind or substantial emotional distress. Stalking includes, but is not limited to, conduct in which a person uses electronic communication, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

B. Gender-Based Harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature. Such conduct creates a hostile environment that is unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from an educational program or activity that is pervasive from an objectively offensive perspective. In evaluating whether a hostile environment exists, the University will consider the totality of know circumstances, including, but not limited to:

1. The frequency, nature, severity, location, duration and context of the conduct; and
2. Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

C. Retaliation. means any adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in any lawful activity. Retaliation includes, but is not limited to, the filing of a lawsuit by either party of civil, criminal or other legal action, even in response to an initial report under this Policy, does not constitute retaliation. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Community

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always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, poor judgement, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.

Evaluating whether another individual is incapacitated requires an assessment of whether the consumption of alcohol or other drugs has rendered that individual physically helpless or substantially incapable of either (a) making decisions about whether to engage in sexual contact or sexual intercourse; or (b) communicating Consent to sexual contact or sexual contact or sexual intercourse.

In evaluating Consent where the question of incapacitation is at issue, the University asks two questions: *(1) did the person initiating sexual activity know that the other party was incapacitated, and if not, (2)*

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do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

E. **Forcible Rape** is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

F. **Forcible Sodomy** is oral and anal sexual intercourse with another person, forcibly and/or against that person (or -consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

G. **Sexual Assault with an Object** To use an object or instrument to penetrate, however slightly, the genital area of another person (or -consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

H. **Forcible Fondling** is the touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person (or -consensually) or not forcibly or against the person (or -consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

I. **Incest** is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Michigan law.

J. **Statutory Rape** is non

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Response Office. The University will support Complainants in understanding, assessing and pursuing these options and will assist a Complainant in notifying law enforcement and seeking medical treatment or counseling.

1. **Law Enforcement EMU Department of Public Safety** (for criminal complaints)

The Department of Public Safety is a fully deputized police department. Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking Emergency Protective Orders.

VIII. INVESTIGATIVE PROCEDURES

There are two

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The University will provide reasonable supportive and remedial measures to Third Parties as appropriate and reasonably available, taking into account the role of the Third Party and the nature of any contractual relationship with the University.

Complainants or others should report information concerning a violation of protective measures to the Title IX Coordinator as soon as possible, and should dial 911 in situations of immediate health or safety concern. The Title IX Coordinator has the discretion to impose and/or modify any supportive measure based on all available information, and is available to meet with a Complainant or Respondent to address any concerns about the provision of supportive measures.

B. Campus and University Resources

The University offers a wide range of resources for all Students and Employees to provide support and guidance in

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EMU uses the formal grievance process to determine whether or not this Policy has been violated. If EMU determines this Policy has been violated, EMU will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

