

PROCEDURES

SEXUAL AND/OR RELATIONSHIP MISCONDUCT

FOR ADDRESSING ALLEGATIONS AGAINST MICHIGAN TECHNOLOGICAL UNIVERSITY STUDENTS

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Table of Contents

Procedural Summary	3
Definitions	4
Initial Action and Review	9
Limitations of Confidentiality	11
Support Guidelines for Both Reporting Party and Responding Party	13
Additional Support Guidelines for the Reporting Party	15
Additional Support Guidelines for the Responding Party	16
University Process	17
An Outline of the Process	18
Investigation	20
Preliminary Report & Comment	20
Final Report	20
Informal Pathway	21
Formal Pathway	22
Hearing Guidelines for Participants	25
Range of Sanctions	27
Educational Conditions	28
Appeal Procedures	29
Procedures for Multiple Violations	32
Records	33
Revocation of Degree	34

Procedural Summary

All allegations of sexual and/or relationship misconduct against a student that become known to campus security authorities and/or responsible employees of the University will be subject to review and investigation. A student wishing to officially report such an incident may do so by contacting the Title IX Coordinator, the Office of Academic and Community Conduct, and/or Public Safety and Police Services. Campuses are obligated to respond to reports of sexual and/or relationship misconduct. If the review and investigation concludes, based on a preponderance of the evidence, that a student is responsible for sexual and/or relationship misconduct, appropriate sanctions and interventions will be applied. (Non-student sexual and/or relationship misconduct is governed by other Codes of conduct, policies and/or laws.) This document outlines the procedures that will be utilized at each stage of the process from initial review to final appeal. In addition, the reporting party may also file external, criminal/civil proceedings for violations of federal/state laws and/or city ordinances. Proceedings may be carried out prior to, simultaneously with, or following criminal/civil proceedings.

Definitions

Advisor

Typically a faculty, staff, or student member of the University chosen by the reporting party or responding party who is able to be present during the investigative and/or hearing process for support to either the reporting party or responding party. However, the advisor may also be someone of the reporting party's or responding party's choosing from outside the University, including an attorney. The advisor may not participate directly in the conduct process, but may be present throughout the proceedings to offer advice, guidance, and/or support to the student (reporting party /responding party).

Allegation Review Panel

Consists of the Title IX Coordinator and representatives from the Office of Academic and Community Conduct, Public Safety and Police Services, and other offices as deemed necessary and appropriate under the circumstances.

Campus Security Authorities

University employees designated under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistic Act of 1998 to report certain crimes including sex offenses (forcible and non- forcible). These employees (including student employees) are from the following areas: Public Safety and Police Services; Human Resources; Athletics; Student Affairs & Advancement; Intramurals; Advisors to student organizations; and/or Deans/Department Chairs/Directors.

Conduct Board

A hearing panel comprised of faculty and staff members of the University who have been trained annually in basic procedural due process and the Sexual and/or Relationship Misconduct Policy and Procedures.

Confidential Resources

Persons to whom information is provided based upon the promise of confidentiality. These persons are not required to tell anyone a reporting party's personally identifiable information unless there is a significant cause for fear of the reporting party's safety or the safety of others.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

Cross-Examination

The direct or indirect, live questioning of the reporting and/or responding party or the reporting and/or responding party's witness during a hearing to determine the credibility (knowledge, accuracy, potential ulterior motives, etc.) of that person's statements. The reporting party and responding party may cross examine each other directly, or may choose to do so indirectly through the procedural officer. The parties may cross examine witnesses directly, or indirectly through the procedural officer. All questioning must be relevant to the charge(s) and/or case.

False Reporting

The reporting by a student of information known by, or which should reasonably have been known by the student to be false. False reporting will not be tolerated by the University. It is a violation of the Student Code of Community Conduct to make an intentionally false report of sexual and/or relationship misconduct, and it may also violate state criminal statutes and civil defamation laws.

Family Educational Rights and Privacy Act (FERPA)

A federal law that protects the privacy of student education records. For additional information, please review: <http://www.mtu.edu/registrar/faculty-staff/ferpa/>

Group Infractions

May occur when members of groups, individuals acting collusively, or members of a student organization act in concert to violate the sexual and/or relationship misconduct policy. They will be charged individually, and the group may be charged as an organization.

Impact Statement

An oral or written statement of what happened; what impacts have been created by what happened; who has been impacted and how; what action(s) should be considered to address the impacts.

Interim Action

An immediate action taken by the University without any hearing to ensure safety and well-being and/or address threats of disruption or interference with

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

normal University operations.

Interim Measure

An accommodation (prior to and/or after any hearing) providing assistance with changes to academic schedules; on-campus housing arrangements; visa/immigration documents; on-campus employment assignments/schedules; on-campus escorts; etc.

Investigator

An individual who investigates allegations. Investigators do not function as advocates for reporting parties or responding parties, but can refer reporting parties or responding parties to advocacy and support resources.

Precedence in Multiple Charges

Followed in cases of multiple charges where more than one University student conduct policy is implicated. The Procedures for and processing of Sexual and/or Relationship Misconduct will take precedence over those governing Academic Integrity charges and Student Code of Community Conduct charges.

Preponderance of Evidence

Means a party has shown that its version of facts, causes, damages, or fault is more likely than not the correct version. The concept of “preponderance of the evidence” can be visualized as a scale representing the burden of proof, with the totality of evidence presented by each side resting on the respective trays on either side of the scale. If the scale tips ever so slightly to one side or the other, the weightier side will prevail. If the scale does not tip toward the side of the party bearing the burden of proof, that party cannot prevail.

Private Resources

Persons and/or agencies from whom an expectation can be made to have allegations taken seriously, investigated thoroughly and properly resolved. This means only those who need to know will be told, and information will be shared only as necessary. Those needing to know may include the person an allegation is being filed against, witnesses, and investigating officials. **[See Also Confidential Resources]**

Reasonable Cause

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

There is sufficient information to allege that a responding party has violated a policy. Evidence is sufficient if a reasonable person would believe that further inquiry into whether a violation occurred is warranted.

Reporting Party

The person who allegedly experiences sex/gender based discrimination, sexual harassment and/or sexual misconduct Regardless of whether they chose to report the conduct to the university or authorities. The person who reports the alleged violation may or may not be the reporting party. If not, they are considered the person to have brought forward the allegation, a witness, or a third-party reporter.

Responding Party

A student(s) or student organization(s) alleged to have violated the sexual and/or relationship misconduct policy. Student-employees alleged to have engaged in sexual and/or relationship misconduct in their employment capacity may be investigated by the Office of Institutional Equity and Inclusion. A student-employee may be subject to sanctions both in connection with their employment and in connection with their student status, under applicable procedures.

Responsible Employees

Includes any employee who has the authority to take action to redress sexual and/or relationship misconduct; who has been given the duty of reporting incidents to the Title IX Coordinator; or whom a student could reasonably believe has this authority or duty. For Title IX compliance, all Michigan Tech employees who are designated as supervisors, with the exception of the ombudsperson and mental health counselors, are considered “responsible employees.” This includes some select undergraduate student employees such as resident assistants (RAs) and orientation team leaders (OTLs). Also considered responsible employees are Public Safety and Polices Services officers and employees, student affairs staff, human resources staff, athletics and recreation staff, academic advisors, faculty, instructors, graduate teaching assistants, graduate assistants that are supervising other students, and individuals designated as Campus Security Authorities.

Sexual and/or Relationship Misconduct

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

Includes sexual harassment; non-consensual sexual intercourse; non-consensual sexual contact; intimate partner violence; stalking and sexual exploitation.

These terms are further defined in the Sexual and/or Relationship Misconduct Policy for Michigan Technological University Students.

Student Organization

Any group of students officially recognized by the University at the time of the alleged violation.

Initial Action and Review

Once the Office of Academic & Community Conduct and/or the Title IX Coordinator is put on notice of any allegation of sexual and/or relationship misconduct (hereinafter, "*Misconduct*") as defined in the Sexual and/or Relationship Misconduct Policy, the individual who allegedly experienced *Misconduct* ("reporting party") will be offered appropriate support services and notified of applicable institutional policies. The student or group that is alleged to have engaged in *Misconduct* ("responding party") will also be offered appropriate information and support services. A student has the right to services whether or not they choose to participate in the process.

The Office of Academic and Community Conduct and/or Title IX Coordinator may implement an interim action(s) as needed to protect the community and students involved, pending the culmination of any review, investigation or appeal process. Interim measures may also be taken to accommodate academic schedules; on-campus housing arrangements; visa/immigration documents; on-campus employment assignments/schedules; on-campus escorts; etc.

If the reporting party is willing to participate in the review and investigation process, the Office of Academic & Community Conduct and/or the Title IX Coordinator will proceed as described in the Investigation section below. In all cases, the University's response is designed to consider the reporting party's preferences regarding the University response, and to provide deference to the reporting party's wishes wherever possible.

If the reporting party files a criminal complaint with law enforcement, the University will comply with law enforcement requests for cooperation. Such cooperation may require the University to temporarily suspend the fact-finding aspect of an investigation while law enforcement gathers evidence. The University will promptly resume its investigation as soon as notified that law enforcement has completed the evidence gathering process.

If the reporting party requests confidentiality or asks that the allegation not be pursued, before taking any further steps the Office of Academic & Community Conduct and/or the Title IX Coordinator may forward that information, along

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

with all available information about the incident or allegation, to the Allegation Review Panel.

Specifically, the Allegation Review Panel will evaluate 1) whether, and to what extent, Michigan Tech should further investigate an allegation of *Misconduct* for the protection of the campus community when the Reporting party does not wish for an investigation to be conducted, and/or when the Reporting party wishes their information to remain confidential; and 2) what other protective measures or remedies might be considered to address any effects of the alleged *Misconduct* in the campus community. In all cases, the Allegation Review Panel serves as an advisory body to the Title IX Coordinator. The final decision on whether and to what extent an investigation will be conducted rests solely with the Title IX Coordinator and/or designee.

The Office of Academic & Community Conduct, in discussion with the Title IX Coordinator, may modify these guidelines as necessary to achieve the goals of prompt, thorough and effective allegation resolution in a procedurally fair manner. The development of informal resolution processes and means other than disciplinary measures, that allow the Title IX Coordinator and other administrators the requisite discretion to deal with the procedural challenges created by the new broadened definition of sexual and/or relationship misconduct is strongly encouraged.

Limitations of Confidentiality

Sexual and/or relationship misconduct allegations will be handled in a confidential manner to the extent possible and consistent with the principles of due process, FERPA, the Violence Against Women Act, and the Campus Security Act.

The Office of Academic & Community Conduct and/or the Title IX Coordinator may not be able to fully address allegations received from anonymous sources unless sufficient information is furnished to enable a meaningful and fair investigation to be conducted.

Complete Confidentiality

If a reporting party desires details of the sexual and/or relationship misconduct incident to be kept confidential, the reporting party should first speak with a confidential resource, who can and will maintain confidentiality and explain the details of confidentiality rules. On-campus counselors are available free of charge and can be seen on an emergency basis by contacting Counseling Services (906-487-2538). The Ombudsperson (906-487-2391) is also an on-campus confidential resource. Off-campus confidential resources are available at Dial Help (906-482-HELP) or Barbara Kettle Gundlach Shelter (888- 337-5623). In addition, students may speak with off-campus clergy/chaplains, who will also keep reports made to them confidential. Confidential resources maintain confidentiality unless there is a significant concern for the reporting party's safety and/or the safety of others.

Duty to Investigate

Students are highly recommended to speak to a responsible employee and/or a campus security authority at the University for purposes of seeking information or reporting incidents. The Office of Academic & Community Conduct and/or the Title IX Coordinator recognize that many students desire confidentiality and many students might not want an investigation and/or attempt by University officials to resolve the sexual and/or relationship misconduct incident. However, depending on the facts and circumstances, it may be legally necessary for University officials to follow up on allegations of sexual and/or relationship misconduct.

Federal Reporting Statistical Requirements

The Department of Public Safety and Police Services must fulfill federal crime reporting requirements. All personally identifiable information is kept confidential, but statistical information must be passed along to Public Safety and Police Services regarding the type of incident and its general location (on or off campus, in the surrounding area, but no addresses are given), for publication in the Annual Security and Fire Safety Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

Federal Timely Warning Requirements

University officials must issue timely warnings for incidents reported to them that continue to pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Open Department of Public Safety and Police Services Logs

When incidents are reported to law enforcement officials, federal law requires that the police note incidents in a police log that is made public within two business days of the report of an incident. No names or other information that could reveal the identity of the student who may be the victim of sexual and/or relationship misconduct will be made public. Arrest records, however, are not confidential and are not protected by FERPA. Any adult student who is arrested can expect that records relating to an arrest and subsequent court proceedings will be made public at some point.

Confidentiality of Medical Services

If a student seeks medical attention, medical providers are required to alert law enforcement of potential sex crimes. If police are called to the hospital, the student has the right to not talk to them. The decision to prosecute an alleged assailant rests with the local prosecuting attorney. This decision can be made without the consent of the person who was assaulted.

Support Guidelines for Both Reporting Party and Responding Party

The reporting party and the responding party will be treated with respect by University officials throughout the entire process. Each reserves and has the right to be present for all testimony given and evidence presented before the hearing officer/conduct board. Neither is required to be present as a prerequisite to proceed.

The reporting party and the responding party will be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by University officials in notifying such authorities, if the reporting party so chooses. This also includes the right not to report, if the reporting party chooses.

The reporting party and the responding party each may request a University "No Contact Order" against each other or against any other student who has engaged in or threatens to engage in any threatening, harassing or other improper behavior. The "No Contact Order" could remain in effect until the investigation is completed.

The reporting party and the responding party each may request a change in academic and living situations. If such changes are requested and are reasonably available, the Office of Academic & Community Conduct and/or the Title IX Coordinator will support the request. Neither a criminal conviction nor an investigation need be completed before a no contact order, a change in academic or living conditions or other appropriate interim measures be put in place.

Neither the reporting party nor the responding party will have the option of having any allegation of sexual violence mediated.

The reporting party and the responding party will each be able to review all documentary evidence available regarding the allegation, and be informed of all witnesses participating in the hearing unless a witness has been granted anonymity for compelling safety reasons in which event efforts will be made to accommodate the request for anonymity and assure due process as required by the nature of the proceedings.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

The reporting party and the responding party may each challenge any member of the conduct board, and request that the conduct board member be removed on the basis of demonstrated bias.

The reporting party and the responding party may each have an advisor of their choosing (including but not required to be an attorney) to accompany and assist them. The advisor may not participate directly in the University's Procedures, but may be present throughout the proceedings to offer advice, guidance, and/or support to the reporting party or responding party.

Academic and Community Conduct personnel may upon request put a privacy screen in place, or other separation of the parties, if there are joint meetings of the reporting party and the responding party before the hearing.

Formal rules of evidence shall not be applicable in conduct hearings but principles of relevance, credibility and acceptance of information which reasonable persons would accept as having probative value in the conduct of their affairs can be considered in any hearing on responsibility, sanctions, and/or interventions. Irrelevant prior sexual history will not be considered in any investigation or other procedures.

The reporting party and responding party may make an impact statement, written or oral, during any point in the process and have the statement considered in determining potential outcomes.

The reporting party and the responding party will be informed simultaneously and in writing within seven (7) business days, of the University's decision, of the outcome of the University's Procedures, including the findings regarding all alleged misconduct, the rationale for the decision, any imposed sanction(s) and educational condition(s), and procedures for appeal. The reporting party and responding party will receive identical reports.

The reporting party and the responding party may each appeal the hearing decision in accordance with the standards for appeal established in the University's Procedures.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

The reporting party and the responding party will be informed simultaneously and in writing within seven (7) business days of its filing of any appeal filed, of any changes in the outcome based on appeal and of when the outcome is final upon expiration of the appeals period. The reporting party and responding party will receive identical reports.

Additional Support Guidelines for the Reporting Party

It is the goal of the Office of Academic & Community Conduct and/or the Title IX Coordinator to ensure that individuals alleging sexual and/or relationship misconduct have access to needed resources, services, and information. The reporting party will be given clear, detailed and complete notice of whether the alleged conduct, if it occurred, would be a violation of the Code, and will be fully informed of the nature, rules, and procedure of the sexual and/or relationship misconduct process, including possible sanctions.

The reporting party will be provided with information regarding available counseling, mental health or student services for reporters of sexual and/or relationship misconduct, both on campus and in the community.

University officials will not discourage the reporting party from reporting, or if reported from pursuing all options available to the reporting party for an alleged sexual and/or relationship misconduct offense. The reporting party may cooperate in an investigation under the University's Procedures, seek criminal charges with campus or local law enforcement, seek civil action with a civil trial (totally independent of the University), choose multiple options, or choose not to take any action.

The reporting party will receive a fundamentally fair hearing, as defined in these procedures. The reporting party may refuse to answer some or all questions to avoid self-implication. This silence may not be used against the reporting party or be the basis for an adverse inference with respect to the party remaining silent.

Additional Support Guidelines for the Responding Party

It is the goal of the Office of Academic & Community Conduct and/or the Title IX Coordinator to ensure that students responding to charges of sexual and/or relationship misconduct have access to needed resources, services and information. The responding party will be given clear, detailed, and complete notice of the alleged violation(s), fully informed of the nature, rules, and procedures of the sexual and/or relationship misconduct process, including possible sanctions, and given an opportunity to respond, by accepting or denying responsibility, or standing mute. Each response will entitle the responding party to all further services, hearing, rights and protections provided by the Code for that response.

The Office of Academic & Community Conduct and/or the Title IX Coordinator strives to offer a reasonable parity of resources, services and information, to the extent possible, to all parties to the incident, including, but not limited to:

The responding party will be provided with information regarding available counseling, mental health or student services for responding parties of sexual and/or relationship misconduct, both on campus and in the community.

The responding party will receive a fundamentally fair hearing, as defined in these procedures.

The responding party may refuse to answer some or all questions to avoid self-implication. This silence may not be used against the responding party or be the basis for an adverse inference with respect to the party remaining silent.

University Process

The University will respond to violations of sexual and/or relationship misconduct through a variety of pathways, informally and/or formally, with the goal of educating all parties involved. Resolutions, as well as appeal processes, are administrative functions internal to the University and not judicial proceedings.

The Office of Academic and Community Conduct, in discussion with the Title IX Coordinator, will determine the most effective method of reviewing the concerns raised by the reporting party while also protecting the rights of other parties. In some cases, this will involve a thorough fact-finding investigation being conducted. In other cases, a different or less formal response to the allegation may be warranted. Although the Office of Academic and Community Conduct, in consultation with the Title IX Coordinator, may modify these guidelines, it will still respond to the allegation in a prompt, thorough and effective manner that is procedurally fair. At any stage of the process, based on review of available information, the Office of Academic and Community Conduct, in consultation with the Title IX Coordinator, may terminate any further response to an allegation. The Reporting party and Responding party will be informed simultaneously and in writing within seven (7) business days of the decision to terminate. The decision to terminate will also be in writing to the University President.

An Outline of the Process

- I. Investigation – Preliminary Report & Comment – Final Report
 - a. As appropriate, interim measures and/or interim actions may be imposed at any stage of the process from receipt of an allegation of misconduct through and after any final conduct decision.
 - b. Reporting Party initially determines either informal pathway or formal pathway to address allegation.
- II. Informal Pathway
 - a. Conduct Intervention - A University official has a meeting with the responding party to explain the conduct process, review the allegation of sexual and/or relationship misconduct, allow the responding party to respond to the allegation, discuss University expectations and potential outcomes for violations of sexual and/or relationship misconduct, and discuss appropriate steps to correct conduct and avoid further violations.
- III. Formal Pathway
 - a. Interim Actions - Official requests/actions to ensure the safety and well-being of all members of the University community; to ensure the responding party's own physical or emotional safety and well-being; or if the responding party poses a threat of disruption of or interference with, the normal operations of the University.
 - b. Administrative Option
 - i. Official written notice of alleged policy violations given to Reporting Party and Responding Party.
 1. Responding Party accepts the findings and designated sanctions and educational conditions, Reporting Party may appeal the outcome and request formal action.
 2. Responding Party rejects the findings and requests formal action.
 3. Responding Party accepts the findings but rejects the sanctions and educational conditions and requests formal action.
 4. If Responding Party waives their right to formal action, Reporting Party may appeal the outcome and request formal action.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

c. Formal Action

- i. Official written notice of alleged policy violations given to Reporting Party and Responding Party.
 1. Responding Party's Initial Conference
 - a. Responding Party fails to appear at initial conference or request alternative time.
 - i. Responding Party waives right to formal action and sanctions/educational conditions are imposed. Responding Party may appeal severity of sanction. Reporting Party retains right to appeal outcome and request a formal hearing.
 - b. Responding Party attends Initial Conference
 - i. Accept responsibility and sanctions/educational conditions.
 - ii. Accept responsibility but contest sanctions/educational conditions
 - iii. Deny responsibility and/or request formal action (Hearing)
 - iv. Request postponement due to mitigating circumstances
 2. Reporting Party
 - a. If Responding Party waives their right to formal action, Reporting Party may appeal the outcome and request formal action.

Investigation

If after reviewing the allegations, the Title IX Coordinator deems reasonable cause exists for an investigation to be conducted, the Office of Academic and Community Conduct and/or the Title IX Coordinator will use the following guidelines to ensure that allegations of Misconduct are handled promptly and effectively in a manner that is procedurally fair to all parties. The investigation may be conducted by Public Safety and Police Services, outside law enforcement, Housing and Residential Life, a Title IX Investigator, and/or the Title IX Coordinator. In most cases, a Title IX Investigator will be utilized. The investigation may include meeting separately with the reporting party, responding party, pertinent witnesses, and reviewing and analyzing relevant documents.

Preliminary Report & Comment

After the investigation is concluded, a preliminary report will be prepared, as circumstances warrant. To the extent permitted by FERPA (and HIPPA if applicable), the Reporting party and Responding party will each be given an opportunity to individually review the preliminary report of the information gathered during the investigation and will be given seven (7) business days to submit comments on the preliminary report to the Title IX Coordinator.

Following receipt of any comments submitted, or after the seven (7) business day comment period has elapsed, the Office of Academic and Community Conduct, in consultation with the Title IX Coordinator, will make a determination regarding the merits of the allegations based upon reasonable cause.

Final Report

The final written report will contain (1) a summary of the reporting party's relevant allegations; (2) a summary of the responding party's relevant statements in response to the allegations; (3) a description of the relevant information provided by witnesses or obtained from

documents, (4) the analysis and findings.

After the investigation has been concluded and has been approved by the Title IX Coordinator, the final report will be made available for review by the reporting party and the responding party in the Office of the Title IX Coordinator. If the final report concludes reasonable cause exists that a violation of the sexual and/or relationship misconduct policy may have occurred, appropriate pathway(s) will be followed, as described below. When there is the potential for a sanction of conduct suspension or conduct expulsion to be imposed, the case will normally proceed with formal pathway.

Informal Pathway

Conduct Intervention - After receiving a report, a University official may decide to schedule a meeting with the responding party to discuss the alleged violation(s). At the meeting, the official will: (1) explain the purpose of the conduct intervention meeting; (2) review the incident report and any impacts/harms to individuals and/or community as a whole; (3) listen to the student's explanation of what occurred and why; (4) discuss community behavioral expectations and conflict resolution techniques; (5) discuss the consequences of the student conduct process; and (6) assist the student in developing an action plan to: repair the impacts/harms to individuals and or community; avoid recurring behavioral issues; make any referrals as deemed appropriate; complete any educational conditions; and reintegrate themselves back in to the community.

No sanctions will be imposed other than a verbal warning during the conduct intervention, and there is no right to an appeal. The reporting party will be notified of the verbal warning being imposed upon the responding party. The official has the authority to change the handling of the incident at the conduct intervention level to the administrative option or formal action, based on the information revealed in the conduct intervention meeting or if the responding

party fails to appear for the conduct intervention meeting. If a change is made, the reporting party and responding party will receive simultaneously and in writing within seven (7) business days the appropriate notice and opportunity to respond.

Formal Pathway

Interim Action – Reasonable cause needs to be present for the University to take interim action prior to any further action or hearing with any responding party to ensure the safety and well-being of all members of the University community; to ensure the responding party’s own physical or emotional safety and well-being; or if the responding party poses a threat of disruption of or interference with, the normal operations of the University. If a responding party fails to comply with the requirements of the interim action, the University may immediately take any lawful action to obtain compliance.

Reporting party and/or responding party can request an interim action review to be conducted at any time after interim action is imposed. The reporting party and/or responding must submit in writing the request for review. During the review process, the reporting party and/or responding party will be given an opportunity to demonstrate in writing why they feel cause no longer exists for the interim action to be in effect. This may include providing additional information not available at the time the interim action was imposed. A separate University official will conduct the review.

“Interim action” includes, without limitation: 1) No verbal/non-verbal/third-party contact with another person(s). 2) Disciplinary hold on the student account that prevents registering for academic courses and/or making any type of academic requests (i.e. transcripts). In order to have the hold removed the student will need to comply with official’s request. 3) Mandatory behavioral agreement that reinforces conduct expectations, with any further

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

violations of the Code resulting in formal action. 4) Restriction on student's presence in the residence halls, on University property and/or at University events. 5) A requirement of an individualized psychological assessment through Counseling Services or at another facility and/or a medical assessment. The assessment(s) may be used to determine the appropriateness of withdrawing, sustaining, or altering the interim action. 6) Immediate suspension from the University.

Administrative Option - The official may send a written notice of the alleged policy violation(s), findings based on a preponderance of the evidence, applicable sanctions and educational conditions to the responding party and the reporting party, with the option for the student to (a) accept the findings and the designated sanctions and educational conditions, (b) request formal action or (c) reject the findings in part or entirely and request formal action. If the student requests formal action, then an initial conference will be scheduled, and the case may proceed with further formal action. If the responding party waives their right to formal action, reporting party may appeal the outcome and request formal action.

The written notice will be sent by a University official simultaneously and within seven (7) business days to the University email address assigned to the reporting party and responding party response must be returned via email to the official within seven (7) business days of the official's emailing of the notice. If the response is not returned within the designated time period, it shall be presumed the reporting party and responding party waives their right to formal action and the sanctions and educational conditions outlined in the email notice will be imposed. The reporting party and responding party will receive identical reports.

Formal Action - The official will send to the reporting party and responding party identical notice of the alleged violation(s), the range of sanctions related to the violation(s) and the date, time and location for an initial conference for the responding party. If the

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

responding party fails to appear at the initial conference, the official may consider all information true and accurate, if it so appears, and take appropriate administrative action.

At the initial conference, the responding party will meet with an official. The purpose of the initial conference is to provide the responding party with additional information about the reported incident and explain the procedures that will be followed to determine if they are responsible or not responsible for the violation(s). At that time, the responding party will respond to the violation by electing one of the following courses of action

- To accept responsibility for violating one or more University rules. The case may then be immediately reviewed by the official, who will take appropriate action. If the reporting party or responding party wishes to demonstrate mitigating circumstances that will impact the sanction(s) and educational condition(s) to be imposed by producing relevant witnesses or information, a postponement of action may be requested for a reasonable time. An identical decision notice will be sent to the reporting party and responding party simultaneously and in writing within seven (7) business days, and will include any applicable sanction and condition(s). The notice will include any applicable sanction and condition(s). The official may choose to refer the case to a meeting with the University Conduct Board for the determination of appropriate sanction and/or educational condition(s).
- To deny responsibility for the violation(s), in which case, the official shall determine the next appropriate course of action from the following: a) Refer for a formal hearing before the University Conduct Board. b) If the board cannot convene, Office of Academic and Community Conduct will arrange a formal hearing by a trained official. c) Adjourn the conference in order to obtain additional information, and then complete

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

the hearing at a later time after additional information has been gathered.

- To stand mute on the charge. The case will then be referred for a formal hearing before the University Conduct Board. If the board cannot convene, Office of Academic and Community Conduct will arrange a formal hearing by an official.

Hearing Guidelines for Participants

The Office of Academic and Community Conduct would like to emphasize that our hearing is not a criminal trial. Formal rules of evidence shall not be applicable in conduct hearings but principles of relevance, credibility and acceptance of information which reasonable persons would accept as having probative value in the conduct of their affairs can be considered in any hearing on responsibility, sanctions, and/or interventions. The standard used to determine if a responding party is responsible is called preponderance of evidence; this differs from criminal court procedures because the hearing officer or committee may simply rule that it is more probable than not that a University regulation has been violated.

The purpose of a hearing is to obtain the information necessary to make a decision in a responding party's case. Additional witnesses or documents are sometimes helpful; however, character witnesses are not allowed.

Hearings are closed to the public. Privacy will be preserved to the fullest extent possible, as allowed by law. At the discretion of the official, an additional official (procedural officer) may be present for the purpose of assisting in managing the hearing, but the assistant shall not otherwise participate in the decision making process.

At the formal hearings, the conduct board will consist of a three- person panel made up of professional staff and faculty. All conduct board members receive annual training. They also receive training on issues related to sexual and/or relationship misconduct and how to conduct a hearing process that is fair, protects safety, and promotes accountability. Members of the University Conduct

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

Board may be current or former licensed attorneys. These individuals serve on the University Conduct Board in their capacity as a student/faculty staff member of the University, not as an attorney. These individuals do not represent or advise the University on the matters before them as an attorney.

Hearings will be recorded. Deliberations will not be recorded. The recording will be the property of the University and maintained according to University records policy.

The procedural officer shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. Any person who disrupts a hearing may be excluded by the procedural officer.

During the hearing, the reporting party and the responding party may present an explanation of the facts and circumstances relating to the incident, present relevant witnesses who can speak to the facts and/or written information, ask questions, and reserve the right to not respond to questions. The reporting party and responding party may cross examine each other directly, or may choose to do so indirectly through the procedural officer. The parties may cross examine witnesses directly, or indirectly through the procedural officer. The procedural officer may determine that witnesses, information and/or questions are not relevant to the charge(s) and/or case.

The reporting party and responding party may have an advisor of their choice to accompany and/or assist them at any point throughout the proceedings. The advisor may not participate directly in the conduct process, but may be present throughout the proceedings to offer advice, guidance, and/or support to the student.

No disciplinary action shall be taken unless it is established by a preponderance of the information available to the Conduct Board that the responding party is responsible for the violation(s). Formal rules of evidence shall not be applicable in conduct hearings. Information, which reasonable persons would accept as having probative value in the conduct of their affairs, can be considered.

Identical written notice of the conduct decision will be sent to the reporting

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

party and responding party simultaneously within seven (7) business days of the hearing. Written notice will also be sent to the University President within seven (7) business days of the hearing. This time may be extended if necessary in the reasonable judgment of the official and/or chair.

Any conduct decision may be appealed by either the reporting party, the responding party, or by the University President, and must follow the established procedures as outlined in Appeal Procedures.

Range of Sanctions

Written Warning

A statement that further violations of University rules will result in sanctions that are more serious.

Conduct Probation

A status, which generally will not exceed 18 months unless in the discretion of the decision maker the status should exceed 18 months. Students who violate any regulation while on conduct probation are likely to receive enhanced sanctions for those subsequent violations. Conduct probation means a student is not in good social/conduct standing, and therefore may be ineligible to participate in co- and/or extra- curricular activities, student employment, scholarships, etc. Once a student has completed at least 1/3 of their total probationary period, they may apply to the Probation Early Release Certification (PERC) program to be reinstated to good conduct standing. Applicants will be required to successfully complete additional educational conditions prior to being released from conduct probation. Please contact the Office of Academic and Community Conduct for more information on the PERC program.

Conduct Suspension

The termination of a person's status as a student for a definite or indefinite period of time with possibility of reinstatement. The student must submit a petition for reinstatement and have it approved before being allowed to return. If allowed to return, a determination will be

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

made whether or not the student will be placed on conduct probation for a specified period of time.

Conduct Expulsion

The termination of a person's status as a student without possibility of reinstatement.

Educational Conditions

Conduct decisions, in addition to a sanction, may include certain an educational condition(s) such as: writing assignments, educational/experiential workshops, counseling, fees, community service, restorative practices, loss of privileges, educational projects and/or assessments. The University has complete discretion to require or to not require educational conditions on a case-by-case basis.

Students with critical financial situations may petition to have University fees related to education conditions reduced or waived. The student must submit their petition in writing for review. During the review process, the student will be given an opportunity to demonstrate a critical financial situation exists precluding them from being able to pay the fee for the educational condition, and a reduction or waiver is necessary.

Appeal Procedures

Both the reporting party and the responding party, as well as the University President, may appeal decisions made by an official and/or hearing board. Instructions for initiating an appeal will be provided in every conduct decision letter. Appeals must be in writing and submitted to the Office of Academic and Community Conduct within seven (7) business days of an official's transmittal of the decision by email, certified mail, or personal delivery. Prior to submitting an appeal, both the responding party and the reporting party may request to have access to all written documentation and/or recording of the original hearing under the supervision of the Office of Academic and Community Conduct. The imposition of sanctions may be deferred while an appeal is pending unless, at the discretion of the Dean of Students or designee, the Interim Action provisions are invoked or for other good cause.

After receiving a request for an appeal, the Office of Academic and Community Conduct will conduct an initial review within seven (7) business days to determine if the appeal request is timely and meets the limited grounds. The basis for an appeal is limited to questions of fact, questions of procedure and severity of sanction as defined below.

Question of Fact

Both reporting party and responding party may appeal on "questions of fact" by introducing new information that would significantly affect the outcome of the case. Information introduced that was not known or could not be reasonably known at the time of the hearing by the responding party shall be considered new information. Evidence that was known or reasonably should have been known but withheld by the reporting party and/or the responding party shall not constitute a question of fact and will not be considered upon appeal.

Question of Procedure

Both reporting party and responding party may appeal on "question of procedure". Appeals will be considered on the basis of "questions of procedure" by demonstrating that the procedural guidelines established in this document were breached, and that such departure

from established procedure significantly affected the outcome of the case.

Severity of Sanction

Both reporting party and responding party, as well as the University President, may appeal the “severity of sanction” that has been imposed by presenting a statement that explains why they believe the sanction should be reconsidered. The appeal must outline why the student believes the sanction imposed was not within the good faith discretion of the University, and therefore should result in a stated lesser or greater sanction.

If the appeal is not timely or on its face fails to address the limited grounds permitted for appeal, the original finding and sanction will stand and the decision is final. Identical notice of this defect in filing the appeal will be sent simultaneously and in writing within seven (7) business days of receipt of the appeal to the reporting party and the responding party. If the appeal meets the above two criteria for acceptance, the appeal will be decided by the Dean of Students or designee within seven (7) business days of receiving the request. However, in appeals of decisions of the Conduct Board imposing sanctions of suspension or expulsion, an Appellate Board will be appointed by the Dean of Students to review the appeal and render a decision. The Appellate Board will consist of a three-person panel made up of professional staff and faculty.

The Dean of Students or designee, or Appellate Board will review the record and render a decision on the appeal. The Dean of Students or designee, or Appellate Board, may (a) remand the case to the original hearing officer or hearing committee; (b) change (increase or decrease) the findings (including the number of offenses the responding party is found responsible for) or sanctions, and/or (c) dismiss the original charges. In cases involving more than one charge, an appeal decision may include more than one of the options in (a) through (c). Identical appellate decisions will be sent simultaneously and in writing within seven (7) business days of the review to the reporting party and the responding party. The appellate decision will also be sent to the University President. The appellate decision action is final and is not subject to further appeal.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

Appeals are not intended to be full re-hearings of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. The party(s) reviewing the appeal may contact the appropriate individuals involved to answer questions and/or provide further clarifications. If appropriate, an extension of the timelines may be provided up to an additional seven (7) business days. Identical notice of an extension will be sent simultaneously and in writing within seven (7) business days to the reporting party and the responding party.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

Procedures for Multiple Violations

In cases of multiple charges where more than one University policy is implicated, the procedures governing Sexual and/or Relationship Misconduct violations will take precedence.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

Records

Records of all conduct actions by officials and boards are considered educational records under FERPA. For additional information, see <http://www.mtu.edu/registrar/faculty-staff/ferpa/>. Records of conduct actions shall be maintained by the Office of Academic and Community Conduct in accordance with the Student Affairs document retention policy. Records of incidents reportable under the Campus Security Act will be retained for seven (7) years from the date of the incident; records of incidents resulting in suspension (when the student does not return to the University) or expulsion will be retained indefinitely; and all other records will be retained for two (2) years following graduation or official withdrawal from the University. With the exception of the sanction of Expulsion, and Special Failing Grades (F*, U* and E* under the Academic Integrity Policy), disciplinary sanctions do not appear on University transcripts. In the case of pending actions where an academic grade cannot be assigned, a grade of "M" will be entered into the student's academic record, which is not calculated into the student's GPA.

Procedure

Addressing Sexual and/or Relationship Misconduct Allegations

Revocation of Degree

The University reserves the right to revoke an awarded degree for fraud in receipt of the degree, or for serious conduct violations committed by a student prior to the student's graduation which the University was not aware of at the time of graduation.