



**michigan school**  
of psychology

# NONDISCRIMINATION AND HARASSMENT POLICY

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## **SECTION ONE: OVERVIEW**

### **I. Introduction and Purpose**

Michigan School of Psychology (“MSP” or “the School”) values and upholds the equal dignity of all members of its community and is committed to providing a learning and working environment that is free from discrimination, harassment, and retaliation. MSP expects and requires that the behavior of its community members, including but not limited to students, faculty, staff, vendors, volunteers, and visitors comply with its high standards of scholarship and conduct. MSP is committed to protecting our campus community and cultivating and sustaining a positive living and learning environment free from discrimination and harassment for all students, faculty and staff.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, MSP has developed this Nondiscrimination and Harassment Policy (“Policy”) to provide a prompt, fair, and impartial resolution of allegations of protected characteristic discrimination, harassment or retaliation.

### **II. Notice of Nondiscrimination**

MSP does not discriminate against any employee or applicant for employment, student or applicant for admission, contractors, vendors, volunteers, or visitors in hiring employees, recruiting and admitting students, or in operating any of its educational programs and activities based upon their actual or perceived membership in one or more of the following protected classes:

- Age
- Arrest record
- Citizenship status
- Color
- Creed
- Disability
- Ethnicity
- Gender expression
- Gender identity
- Genetic information (including family medical history)
- Height
- Marital or Familial status
- National origin (including ancestry)
- Pregnancy or related conditions
- Race
- Religion
- Sex
- Sexual orientation
- Transgender status
- Veteran or military status
- Weight
- or any other protected characteristic under applicable local, state, or federal law, including retaliation protections for those opposing discrimination or participating in any grievance process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agency.

This Policy covers discrimination, harassment, retaliation, or other Prohibited Conduct in both employment and access to educational opportunities. Therefore, any member of the MSP community whose acts deny, deprive, unreasonably interfere with, or limit the employment or education, access, benefits, and/or opportunities of any member of the MSP community, guest, visitor, vendor, or volunteer on the basis of that person's actual or perceived protected characteristic(s), is in violation of this Policy.

MSP will promptly and effectively address any such discrimination of which it has Knowledge/Notice, using the Informal Resolution Process or Administrative Resolution Process outlined in this Policy.

### **III. Scope**

This Policy applies to all faculty, staff, students, and other individuals (e.g. third-party vendors, volunteers, visitors) participating in or attempting to participate in MSP's program or activities, including education and employment, are protected by, and subject to, this policy, its jurisdiction, and all applicable state and federal laws. MSP will take appropriate steps to respond to all reports of Prohibited Conduct, including those by third parties, consistent with the authority granted by MSP's jurisdiction and authority, if any, over the Respondent. A third-party who is accused of violating MSP policy may be permanently barred from areas and/or activities controlled by MSP or be subject to other restrictions for failing to comply with this Policy. Third parties may not be granted the full rights and processes afforded to MSP community members under this policy.

### **IV. Jurisdiction**

This Policy applies to MSP's education programs and activities and circumstances where MSP has disciplinary authority.<sup>1</sup> A Complainant does not have to be a member of the MSP community to file a Complaint under this Policy.

When a Party is participating in a clinical training program, the MSP will coordinate with the clinical training site to determine jurisdiction and coordinate providing supportive measures and responding to the complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

All vendors and individuals hired or retained through third-party contracts and Memoranda of Understanding (MOU) are subject to the policies and procedures of their employers and/or to these policies and procedures if their employer has agreed to be bound by their contracts or the MOU indicates such.

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<sup>1</sup> MSP education program and activities include locations, events, or circumstances in which MSP exercises substantial control over both the Respondent and the context in which the conduct occurred.

This Policy applies to the effects of off-campus misconduct, including clinical training sites, that limit or deny a person's access to MSP's education program or activities and also extends jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial MSP interest.

A substantial MSP interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with MSP's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be an MSP student or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the MSP community, the Vice President of Services & Operations, Title IX Coordinator, ADA Compliance Officer, and Section 504 Coordinator (hereinafter "Policy Administrator") will offer to assist the Complainant in identifying appropriate institutional and community resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). MSP can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

When the Respondent is enrolled in or employed by another institution, the Policy Administrator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies. Similarly, the Policy Administrator may be able to assist and support a student or employee who experiences discrimination in an externship, study abroad program, or other environment external to MSP where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Policy Administrator if brought to their attention.

## **SECTION TWO: DEFINITIONS**

The following definitions apply to this Policy:

- **Advisor.** Any person chosen by a Party or appointed by MSP, who may accompany the Party to all meetings related to the Resolution Process and advise the Party on that process.



- **Appeal Decision-maker.** The person who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.**
  - A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or other Prohibited Conduct under this Policy; or
  - A person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or other Prohibited Conduct under the Policy and who was participating or attempting to participate in MSP's education program or activity at the time of the alleged discrimination, harassment, retaliation, or other Prohibited Conduct.
- **Complaint.** An oral or written request to MSP that can objectively be understood as a request for MSP to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
  - An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
  - An employee whom MSP has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about discrimination, harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or
  - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.
- **Day.** A business day when MSP is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.

- **Education Program or Activity.** Locations, events, or circumstances where MSP exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that MSP officially recognizes.
- **Employee.** A person employed by MSP either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the preponderance of evidence that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the preponderance of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Policy Administrator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by MSP to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When MSP receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- **Mandated Reporter.** A MSP employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, retaliation, and/or Other Prohibited Conduct with the Policy Administrator.<sup>2,3</sup>
- **Notice.** When an employee, student, or third-party informs the Policy Administrator of the alleged occurrence of discriminatory, harassing, retaliatory, and/or Other Prohibited Conduct.

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<sup>2</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

<sup>3</sup> The Policy Administrator designated to receive information from Mandated Reporters may vary depending upon the type of alleged discrimination, harassment, retaliation, or Other Prohibited Conduct (e.g., on the basis of sex, on the basis of race, on the basis of disability).

- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against discrimination and harassment by law or MSP Policy.
- **Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to MSP's Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution and Administrative Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy, or Other Prohibited Conduct.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** Any person who has gained admission.
- **Title IX Coordinator.** The official designated by MSP to ensure ultimate oversight of compliance with Title IX and MSP's Title IX program. References to the "Policy Administrator" throughout this Policy encompass the Title IX Coordinator and any designee of the Title IX Coordinator, such as the Deputy Title IX Coordinator.

### SECTION THREE: PROHIBITED CONDUCT

Students and employees are entitled to a learning and working environment that is free of discrimination, harassment, retaliation, and Other Prohibited Conduct. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that

include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of illegal discrimination, harassment, retaliation, and Other Prohibited Conduct that are also prohibited under this Policy.

Any of the following offenses can be combined as pattern offenses. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

All definitions below encompass actual and/or attempted offenses. Violation of any other MSP policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

Michigan School of Psychology reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under this Policy but may be addressed under a different MSP policy or through respectful conversation, remedial actions, education, and/or Informal Resolution mechanisms.

#### **I. Discrimination:**

Differential treatment with respect to a person's employment or participation in an MSP education program or activity, based in whole or in part, upon the person's actual or perceived protected characteristic.

#### **II. Discriminatory Harassment**

Unwelcome conduct on the basis of actual or perceived protected characteristic(s),

- that is based on the totality of the circumstances,
- that is subjectively and objectively offensive, and
- that is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from MSP's education program or activity

#### **III. Disparate Treatment Discrimination:**

Intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that:

- Excludes a person from participation in;
- Denies the person benefits of; or

- Otherwise adversely affects a term or condition of a person's participation in an MSP program or activity.

#### **IV. Disparate Impact Discrimination:**

Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:

- Excludes a person from participation in;
- Denies the person benefits of; or
- Otherwise adversely affects a term or condition of a person's participation in an MSP program or activity.

#### **V. Sex-based Harassment (Applicable under Title IX and Title VII)**

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

##### **1. Quid Pro Quo:**

- An employee agent, or other person authorized by MSP to provide an aid, benefit, or service under MSP's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

##### **2. Hostile Environment:**

- Unwelcome sex-based conduct,
- that, based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from an MSP education program or activity

#### **VI. Sexual Assault**

Any sexual act, including Rape or Fondling, directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.

##### **1. Rape:**

- Penetration of the Complaint by the Respondent,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental or physical incapacity

## **2. Fondling:**

- The touching of the private body parts of the Complainant (genitals, pubic area, buttocks, and breasts), or causing Complainant to have such contact with Respondent
- for the purpose of sexual gratification,
- without the consent of the Complainant,
  - including instances where the Complainant is incapable of giving consent because of their age or
  - because of a temporary or permanent mental or physical incapacity.

## **3. Incest:**

- Nonforcible sexual intercourse between persons who are related to each other
- within the degrees wherein marriage is prohibited by Michigan law.

## **4. Statutory Rape:**

- Nonforcible sexual intercourse with a person
- who is under Michigan statutory age of consent (16 years old).

## **VII. Consent, Force, Coercion, and Incapacitation**

As used in this Policy, the following definitions and understandings apply:

### **1. Consent:** Knowing, voluntary, and clear permission, given by word or action, to engage in sexual activity.

- The existence of consent is based on the totality of the circumstances evaluated from what a reasonable person in the same or similar circumstances (including the context in which the alleged misconduct occurred and any similar and previous patterns) would conclude are mutually understandable words or actions.
- It is the responsibility of each Party to determine that the other has consented before engaging in the activity.
- If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter. Reasonable reciprocation can establish consent.
- Consent can be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time.
- Silence or the absence of resistance alone should not be interpreted as consent. While resistance is not required or necessary, it is a clear demonstration of non-consent.
- Consent to some sexual contact cannot be assumed to be consent for other sexual activity. A current or previous intimate relationship is not sufficient to constitute consent.

- If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.
- Proof of consent or non-consent is not a burden placed on either Party involved in a Complaint. Instead, the burden remains on MSP to determine whether its Policy has been violated.

**2. Force:** The use of physical violence and/or imposition to gain sexual access.

- Force is conduct that, if sufficiently severe, can negate consent.
- Force also includes threats (actual or implied), intimidation, and coercion intended to overcome resistance or produce consent.

**3. Coercion:** Unreasonable pressure for sexual activity.

- Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary.
- When someone makes clear that they do not want to engage in 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.
- Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

**4. Incapacitation:** A state where a person is incapable of giving consent.

- An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).
- A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.
- This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.
- Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

**VIII. Dating Violence**

- Violence committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; and

- where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - length of the relationship
  - type of relationship
  - frequency of the interaction between the Parties involved in the relationship.

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.

**IX. Domestic Violence:**

Felony or misdemeanor crimes committed by a person who:

- is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of Michigan or a person similarly situated to a spouse of the Complainant;
- is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- shares a child in common with the Complainant; or
- commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of Michigan.

**X. Stalking:**

- Engaging in a course of conduct,
- on the basis of sex, that is
- directed at a specific person that would cause a reasonable person to:
  - fear for the person’s safety, or
  - the safety of others, or
  - suffer substantial emotional distress.

For the purposes of this definition:

- “Course of conduct” means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the Complainant.
- “Substantial emotional distress” means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**XI. Sexual Exploitation**



A person taking non-consensual or abusive sexual advantage of another (that does not constitute Sex-based Harassment as defined above) for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including artificial intelligence (AI) images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent.

## **XII. Retaliation:**

- Adverse action, including intimidation, threats, coercion, or discrimination, against any person,
- by MSP, a student, employee, or a person authorized by MSP to provide aid, benefit, or service under MSP's education program or activity,

- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under this Policy, including an Informal Resolution process, or in any other appropriate steps taken by MSP to promptly and effectively end any discrimination, harassment, retaliation, or Other Prohibited Conduct in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for MSP to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under this Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any Party has made a materially false statement in bad faith.

### **XIII. Unauthorized Disclosure:<sup>4</sup>**

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process (except as required by law or as expressly permitted by MSP); or
- Publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

### **XIV. Failure to Comply/Process Interference**

- Intentional failure to comply with the reasonable directives of the Policy Administrator in the performance of their official duties, including with the terms of a No Contact Order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Resolution Process, including, but not limited to destruction of or concealing of evidence, actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence, or intimidating or bribing a Witness or Party

### **XV. Online Harassment and Misconduct**

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<sup>4</sup> Nothing in this section restricts the ability of the Parties to obtain and present evidence, including by speaking to Witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

MSP policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited above, when those behaviors occur in or have an effect on MSP's education program and activities, or when they involve the use of MSP's networks, technology, or equipment.

Although Michigan School of Psychology may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to Michigan School of Psychology, it will engage in a variety of means to address and mitigate the effects. These means may include use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to Michigan School of Psychology's education program or activity.

Off-campus harassing speech by employees, whether online or in person, may be regulated by MSP only when such speech is made in an employee's official or work-related capacity.

## **XVI. Other Prohibited Conduct<sup>5</sup>**

### **1. Bullying:**

- Repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that is otherwise protected by the First Amendment.

### **2. Endangerment:**

- Threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

### **3. Hazing:**

- Any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any MSP group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved

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<sup>5</sup> The offenses of Bullying, Endangerment, and Hazing are applicable when the conduct is on the basis of protected characteristics but is not a form of Sex-based Harassment.

by the student group or student organization, for an allegation of hazing to be upheld.

- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered hazing.
- Hazing is not confined to the student group or student organization with which the person subjected to the hazing is associated.

#### **SECTION FOUR: INCLUSION RELATED TO GENDER IDENTITY/EXPRESSION**

Michigan School of Psychology strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, transitioning, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by Michigan School of Psychology. If a member of the MSP community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, MSP supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

MSP is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. Michigan School of Psychology will administratively address issues that some students and employees, including those identifying as intersex, nonbinary, transgender, transitioning, agender, two-spirit, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do the Michigan School of Psychology's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to Michigan School of Psychology's goal of being as welcoming and inclusive a community as possible.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be and may constitute a Policy violation if the effect is greater than *de minimis* harm. We each have a right

to determine our own gender identity and expression, but we do not get to choose or negate someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender diverse. Deadnaming means using someone's birth-assigned name, rather than the name they have chosen.

To a person who is transgender, transitioning, nonbinary, or gender diverse, their cisgender identity may be something that is in their past — dead, buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Again, unintentional deadnaming can often be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, nonbinary, transgender, transitioning, agender, two-spirit, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms. Ensuring all employees have equal access to employment opportunities and work.
- Providing professional development for employees and education for students on topics related to gender inclusion
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the Michigan School of Psychology community

MSP uses a number of interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the Michigan School of Psychology will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, Michigan School of Psychology will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

## **SECTION FIVE: MANDATORY REPORTING AND CONFIDENTIALITY**

All Michigan School of Psychology faculty and employees (including student-employees when acting in their capacity as an employee) are Mandated Reporters and expected to promptly report all known details of actual or suspected discrimination, harassment, retaliation, and/or Other Prohibited Conduct to appropriate officials, immediately.

Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors remain Mandated Reporters when serving the School as faculty or staff. The only time that faculty and staff will serve the School in a confidential capacity is when conducting human subjects research as part of a study approved by MSP's Institutional Review Board (IRB). This confidentiality does not extend past the IRB-approved work. Any report of Prohibited Conduct received outside of the context of research study must be reported.

A Complainant can report alleged crimes and/or Policy violations to either a Mandated Reporter or to one of the Title IX Deputies, and these employees will immediately notify the Policy Administrator (and/or police, if desired by the Complainant or required by law). Mandated Reporters and Title IX Deputies will give the Complainant resources information about reporting. Complainants can also report directly to the Policy Administrator.

A Mandated Reporter who is themselves a target of discrimination, harassment, or Other Prohibited Misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

## **SECTION SIX: REPORTING PROHIBITED CONDUCT**

### **I. General Reporting Information**

A Report of Prohibited Conduct constitutes notice to MSP of an allegation or concern about Discrimination, Harassment, Retaliation, or other Prohibited Conduct, and provides an opportunity for the Policy Administrator to provide information, resources, and supportive measures to those impacted.

A Complaint provides notice to MSP that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and decide at a later time to make a Complaint. Reports or Complaints of discrimination, harassment, retaliation, and/or Other Prohibited Conduct may be made in-person, by telephone or Zoom, via email, or by mail to the Office of the Policy Administrator.

Anonymous Notice is accepted, but the Notice may give rise to a need to try to determine the Parties' identities. Anonymous Notice typically limits MSP's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of Anonymous Notice.

Reporting carries no obligation to initiate a Complaint, and in most situations, MSP is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling

threat to health and/or safety, where MSP may need to initiate a Resolution Process. MSP will maintain the privacy of information to the extent possible.

## **II. How to Report/File a Complaint**

### **1. Internal Complaints**

Michigan School of Psychology has appointed a Policy Administrator to coordinate MSP's compliance with federal, state, and local civil rights laws and ordinances related to discrimination, harassment, retaliation, and Other Prohibited Conduct.

#### **Policy Administrator**

Tami Jacobs

Vice President of Services & Operations, Title IX Coordinator,  
ADA Compliance Officer, and Section 504 Coordinator.

Phone: 248-476-1122 (Extension 122)

Office: 26811 Orchard Lake Road, Farmington Hills, MI 48334

Email: [tjacobs@msp.edu](mailto:tjacobs@msp.edu)

### **2. External Complaints**

Concerns about the Michigan School of Psychology's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

#### **a. Office of Civil Rights**

U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

#### **b. Equal Employment Opportunity Commission (EEOC)**

Equal Employment Opportunity Commission  
Phone: 800-669-4000,  
TDD: 800-669-6820  
ASL Video Phone: 844-234-5122  
Web: [info@eeoc.gov](mailto:info@eeoc.gov)

#### **c. Michigan Civil Rights Commission**

The Commission is charged with investigating alleged discrimination against any person because of religion, race, color or national origin, genetic information, sex, age, marital status, height, weight, arrest record, and physical and mental disability.

Complaints can be filed with the Michigan Civil Rights Commission  
<https://dtmb.state.mi.us/MDCRRequestforService/RequestComplaint>

### III. Reporting Considerations

#### 1. Time Limits on Reporting

There is no time limitation on filing a complaint; however, if the Respondent is no longer subject to MSP's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Policy Administrator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

#### 2. Confidentiality/Privacy

MSP makes every effort to preserve the Parties' privacy. MSP will not share the identity of any Complainant, Respondent, Witness, or individual who has otherwise participated in the process except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.

For the purpose of this Policy, the terms privacy, confidentiality, and privilege have distinct meanings.

**Privacy.** Means that information related to a complaint will be shared with a limited number of MSP employees who "need to know" in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in MSP's response to Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.

**Confidentiality.** Exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors, when acting in that capacity.



**Privilege.** Exists in the context of laws that protect certain relationships, including attorneys, and clergy. Privilege is maintained by a provider unless a court orders release or the holder of the privilege (e.g., a client, parishioner) waives the protections of the privilege.

MSP reserves the right to determine which School officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Decision-makers, Appeal Decision-makers, Witnesses, the Parties, and the Parties' Advisors. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy.

MSP may contact students' emergency contact(s) to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

Parties and Advisors are prohibited from disclosing information obtained by MSP through the Resolution Process, to the extent that information is the work product of MSP (meaning it has been produced, compiled, or written by MSP for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of MSP Policy to publicly disclose institutional work product that contains a Party or Witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

### **3. Preservation of Evidence**

Complainants are advised to seek immediate medical treatment and preserve physical evidence following an incident of Prohibited Conduct even if they have not decided whether they wish to pursue any complaint or criminal action. This will help to ensure that a Complainant receives proper care and preserves their opportunity to support a criminal action or Formal Resolution process at a later time.

In addition, evidence in the form of text and voice messages, email and social media correspondence, call logs and time-stamped photographs, or any other digital recording should be preserved when possible. All Parties, once aware of a Formal Resolution process, are expected to preserve evidence.

### **4. Reports Involving Minors**

Michigan Child Protection Law requires certain professionals, including Psychologists, to report their suspicions of child abuse or neglect to Centralized Intake (CI) at the Michigan Department of Health and Human Services (MDHHS). These people are mandated reporters and have established relationships with children based on their

profession.<sup>6</sup> If a child is in immediate danger, call 911. Mandated Reporters may contact the Mandated Reporter Hotline at 877-277-2585.

As per Michigan Child Protect Law, Act 238 of 1975, “Child” means a person under the age of 18. “Child abuse” means harm or threatened harm to a child’s health or welfare that occurs through non-accidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child’s health or welfare or by a teacher, a teacher’s aide, or a member of the clergy.

#### **IV. School-Initiated Complaints**

The Policy Administrator has the discretion to file a Complaint on behalf of a Complainant. In evaluating the appropriate manner of resolution, including whether the Policy Administrator will file a Complaint in the absence of a Complaint filed by the Complainant, the Policy Administrator will consider the following factors:

- The Complainant’s request not to proceed with initiation of a Complaint;
- The Complainant’s reasonable safety concerns regarding initiation of a Complaint;
- The severity and impact of the alleged misconduct;
- Whether the misconduct was committed with a weapon;
- The respective ages of the Parties;
- Whether the Complainant is a minor under the age of 18;
- Whether the Respondent has a history of committing such misconduct;
- Whether there have been other complaints about the same Respondent;
- Whether the Respondent is alleged to have threatened further misconduct;
- Whether the misconduct was committed by multiple Respondents;
- Whether the report reveals a pattern of misconduct (e.g., at a given location or by a particular group);
- The existence of independent evidence that may be available without the participation of the Complainant;
- The extent of prior remedial methods taken with the Respondent.

MSP will take all reasonable steps to respond to the report consistent with a Complainant’s requested course of action, but its ability to do so may be limited based on the nature of the reported information. Where the Policy Administrator files a Complaint on behalf of the Complainant, the Policy Administrator will inform the Complainant about the chosen course of action and appropriately address reasonable concerns about the Complainant’s safety or safety of others, including providing Supportive Measures. When the Policy Administrator initiates a Complaint, they do not become the Complainant.

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<sup>6</sup> For a list of Mandatory Reports in the state of Michigan, see <https://www.michigan.gov/mdhhs/adult-child-serv/abuse-neglect/childrens/mandated-reporters/mandated-reporters-list>

## **V. Counter-Complaints**

MSP is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although MSP permits the filing of counter-complaints, the Policy Administrator will use an initial evaluation to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of this Policy.

Counter complaints determined to have been reported in good faith will be processed using the Resolution Process. At the Policy Administrator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

## **SECTION SEVEN: SUPPORTIVE MEASURES, ACCOMODATIONS, AND INTERIM ACTION**

### **I. Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered without fee or charge to the Parties to restore or preserve access to the Michigan School of Psychology's education program or activity, including measures designed to protect the safety of all Parties and/or MSP's educational environment and/or to deter Prohibited Conduct.

Michigan School of Psychology will promptly offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged discrimination, harassment, retaliation, and/or Other Prohibited Conduct. If a Complaint has not been filed, MSP will inform the Complainant, in-writing, that they may file a Complaint at that time or in the future but are not required to do so. The Policy Administrator will work with Parties to ensure that their wishes are considered with respect to any planned and implemented supportive measures. MSP will act to ensure as minimal an academic/employment impact on the Parties as possible and implement measures in a way that does not unreasonably burden any Party.

The Parties are provided with a timely opportunity to seek modification or reversal of MSP's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Policy Administrator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures.

MSP will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. MSP typically renders decisions on supportive measures within seven (7) days of receiving a

request and provides a written determination to the impacted Party or Parties and the Policy Administrator.

Supportive Measures may include, but are not limited to:

- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact restrictions (No Contact Orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG) Orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Policy Administrator

Violations of No Contact Orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

## **II. Accommodations**

MSP is committed to providing reasonable accommodations and support to qualified students, employees, or others to ensure equal access to the processes outlined in this policy. Anyone needing such accommodations or support should contact the Policy Administrator, who will work with the appropriate office(s) to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

### **1. Disability Services:**

Disability Accommodations and services are available to all students and employees who meet criteria requirements of the Americans with Disability Act (ADA). Notifying MSP of a disability is optional and confidential.

#### **ADA Coordinator**

Tami Jacobs

[tjacobs@msp.edu](mailto:tjacobs@msp.edu)

Phone: 248-476-1122 (Ext. 122)

Office Location: 26811 Orchard Lake Road, Farmington Hills, MI 48334

## **2. Religious Accommodations:**

MSP is committed to providing reasonable accommodations and support to individuals of all religions and creeds. Requests for a religious accommodation during the Resolution Process should be submitted to the Policy Administrator.

Tami Jacobs

[tjacobs@msp.edu](mailto:tjacobs@msp.edu)

Phone: 248-476-1122 (Ext. 122)

Office Location: 26811 Orchard Lake Road, Farmington Hills, MI 48334

## **3. Translation and Interpretation Services:**

Translation and interpretation services will be provided, at the discretion of the Policy Administrator, for any individual participating in the Resolution Process. Please notify the Policy Administrator immediately if translation services are needed to effectively participate in the Resolution Process.

Tami Jacobs

[tjacobs@msp.edu](mailto:tjacobs@msp.edu)

Phone: 248-476-1122 (Ext. 122)

Office Location: 26811 Orchard Lake Road, Farmington Hills, MI 48334

## **III. Interim Action**

MSP may take Interim Action during the Resolution Process to ensure safety, prevent retaliation, and/or to address any ongoing hostile environment. During the fact-finding and investigatory phase, MSP will implement appropriate remediation measures including but not limited to academic accommodations, and/or No Contact Orders to ensure the safety of the MSP community.

Interim Action measures, determined at the discretion of the Policy Administrator, include, but are not limited to:

1. No Contact Orders
2. Campus Restrictions
3. Emergency Removal/Interim Suspension of a Student
4. Alternative work assignments
5. Placing an employee on Leave

### **Emergency Removal/Interim Suspension of a Student**

Upon receipt of Notice, Knowledge, a Complaint, or at any time during the Resolution Process, MSP may act to remove a Respondent accused of violating this Policy, partially or entirely, on an emergency/interim basis, from its property, employment, or educational program or activity. Before imposing an emergency removal, MSP will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence poses an imminent and serious threat to the health or safety of any student, employees, or other persons arising from the allegations, to justify such action.

When an emergency removal or interim suspension is imposed, wholly or partially, the Policy Administrator will promptly notify the Respondent with written notice of the removal, a rationale for the removal, and the opportunity to challenge the removal. That notice shall include a statement that the use of any information the Respondent chooses to provide may subsequently be used in the implementation of any aspect of this Policy or the Resolution Process, including the investigation and adjudication.

The Respondent will have two (2) days to submit to the Policy Administrator a written challenge to the safety and risk analysis. Upon receipt of a challenge, the Policy Administrator will assign the matter to be reviewed by a Decision-maker:

1. **Students:** The Vice President of Academics (or designee)
2. **Employees:** The Director of Human Resources (or designee)

The Decision-maker will meet with the Respondent as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified. The Respondent will have an opportunity to present relevant evidence, including expert reports, witness statements, communications, or other documentation challenging the safety and risk analysis. When applicable, a Complainant may provide information to the Decision-maker for consideration. The Decision-maker will determine whether the emergency removal or interim suspension is appropriate, should be modified, or should be lifted, and will submit a final written determination to the Respondent and Policy Administrator within five (5) days. As appropriate, the Policy Administrator will notify the Complainant of the decision.

If the Respondent does not challenge the decision within two (2) days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed.

## **SECTION EIGHT: RESOLUTION OPTIONS OVERVIEW**

Michigan School of Psychology will promptly act on any Notice, Knowledge, or Complaint, of a potential violation of this Policy. The Resolution Processes, consisting of Informal Resolution or Administrative Resolution, can be used for all Complaints of Discrimination, Harassment, Retaliation, and Other Prohibited Conduct, as defined in this Policy. MSP considers Parties' preferences when determining the appropriate Resolution Process, but the appropriate Process

is ultimately determined at the Policy Administrator discretion. Resolution proceedings are private. All individuals present during the Resolution Process are expected to maintain the privacy of the proceedings.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Policy Administrator will determine whether additional individual or community remedies are necessary to meet MSP's compliance obligations in addition to the alternative resolution.

The Policy Administrator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the Resolution Agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, and application of enforcement terms of the agreement).

## **I. Initial Evaluation**

The Policy Administrator conducts an initial evaluation, typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct. The initial evaluation typically includes:

1. Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
  - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
2. Determining whether MSP has jurisdiction over the reported conduct, as defined in the Policy.
  - If the conduct is not within MSP's jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate MSP office or entity that has jurisdiction (e.g. clinical training site) for resolution.
3. Offering and coordinating supportive measures for the Complainant and Respondent, as applicable.
4. Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, Informal Resolution options, or the Resolution Process described below.
5. Determining whether the Complainant wishes to initiate a Complaint.
6. Notifying the Respondent of the available resolution options if a Complaint is made.

Upon review of the Complaint, or at any time during the course of the investigation, the Investigator has the ability to recommend dismissal to the Policy Administrator, if they believe the grounds are met.

## **II. Informal Resolution**

Informal Resolution is an alternative to a formal investigation and intended to be flexible and provide a range of outcomes. The process is supervised by a trained Facilitator, who presents the option and proposed terms to each Party independently and in writing. The terms of an Informal Resolution Agreement are specific to each situation and must be agreed to by all Parties and the Policy Administrator.

Any Party or the Policy Administrator may request that the Parties engage in the Informal Resolution Process at any time prior to a final determination. MSP will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate. If an Informal Resolution option is not available or selected, MSP will initiate or continue an investigation and proceed with the Administrative Process to determine whether this Policy has been violated.

See Section Nine for more details about the Informal Resolution Process.

## **III. Administrative Resolution**

The Administrative Resolution Process can be used when Informal Resolution is either not elected or is unsuccessful. The Process consists of a formal investigation conducted by a trained MSP-appointed Investigator who will also serve as the Decision-maker to make a finding of whether the Respondent engaged in the alleged misconduct. The Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including inculpatory evidence (that supports that the Respondent engaged in a Policy violation) and exculpatory evidence (that supports that the Respondent did not engage in a Policy violation). All Parties have a full and fair opportunity, through the investigation process, to identify Witnesses and suggest questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

See Section Ten for more details about the Administrative Resolution Process

## **IV. Collateral Misconduct**

Collateral misconduct is defined to include potential violations of other MSP policies not incorporated into this Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Policy Administrator may consult with MSP officials who typically oversee such conduct (e.g., Human Resources, Student Conduct, Academic Affairs) to solicit their input, as needed, on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Policy Administrator. All other allegations of



misconduct unrelated to incidents covered by the Policy will typically be addressed separately, through procedures described in the student and employee handbooks.

## **V. Resolution Timeline**

MSP will make a good faith effort to complete the entire Resolution Process within ninety (90) days, including any appeals. The Policy Administrator can extend this timeline as necessary for appropriate cause. Investigations are completed expeditiously, normally within sixty (60) days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

If a Party or Witness chooses not to participate in the Resolution Process, or becomes unresponsive, MSP reserves the right to continue without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

MSP may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or Witnesses, and/or health conditions.<sup>7</sup> MSP will promptly resume its Resolution Process as soon as feasible. During such a delay, MSP will implement and maintain supportive measures for the Parties as deemed appropriate.

## **VI. Ensuring Impartiality**

Any individual materially involved in the administration of the Resolution Process, including, but not limited to, the Policy Administrator, Deputy Title IX Coordinators, Investigators, Informal Resolution Facilitators, and Appeal Decision-makers may neither have nor demonstrate a conflict of interest or bias for a Party generally, or for a specific Complainant or Respondent.

The Policy Administrator will vet the assigned administrators for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Policy Administrator will determine whether the concern is reasonable and supportable. If so, another administrator will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Policy Administrator, concerns should be raised with MSP's President.

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<sup>7</sup> MSP action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

## **VII. Dismissal**

MSP **may** dismiss a Complaint if, at any time during the Resolution Process, one or more of the following grounds are met:

1. MSP is unable to identify the Respondent after taking reasonable steps to do so.
2. MSP no longer enrolls or employs the Respondent.
3. A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Policy Administrator declines to initiate a Complaint. (A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.)
4. MSP determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven.

An Investigator can recommend dismissal to the Policy Administrator if they believe the grounds are met.

Upon any dismissal, MSP will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, MSP will also notify the Respondent of the dismissal by providing the Respondent with a Notice of Investigation of Allegations (NOIA) and notifying them of the Complainant's appeal rights and their opportunity to respond.

## **VIII. Appeal of Dismissal**

Any Party may appeal a dismissal decision. All dismissal appeal requests must be filed in-writing within three (3) days of the notification of the dismissal. Appeals should be submitted directly to the Policy Administrator, who will assign a Dismissal Appeal Officer. If an appeal is not submitted within three (3) days, and an extension was not granted in writing, all appeal rights will be waived. The Policy Administrator will notify the Parties of any dismissal appeal.

Throughout the dismissal appeal process, MSP will:

1. Implement dismissal appeal procedures equally for the Parties.
2. Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations, Informal Resolution facilitation, or the dismissal of the Complaint.
3. Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
4. Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

1. Procedural irregularity that would change the outcome.
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.

3. The Policy Administrator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent specifically, that would change the outcome.
4. The dismissal was erroneously granted or denied.

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Policy Administrator will share the petition with all other Parties and provide three (3) days for other Parties and the Policy Administrator to respond to the request. At the conclusion of the response period, the Policy Administrator will forward the appeal, as well as any response provided by the other Parties and/or the Policy Administrator to the Dismissal Appeal Officer for consideration.

The Dismissal Appeal Officer has seven (7) days to review and decide on the appeal (Extensions can be granted at the Policy Administrator's discretion, and the Parties will be notified of any extension). The Dismissal Appeal Officer may consult with the Policy Administrator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Policy Administrator will maintain documentation of all such consultation.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

1. If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties, their Advisors, and the Policy Administrator will be notified in-writing of the denial and the rationale for the decision.
2. If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will grant the request and notify all Parties, their Advisors, and the Policy Administrator of their decision, and their rationale for the decision, in writing. The Policy Administrator would then reinstate the Resolution Process.

## **SECTION NINE: INFORMAL RESOLUTION PROCESS**

A Complainant or Respondent may request that the Parties engage in the Informal Resolution Process, or the Policy Administrator may offer the option to the Parties, in writing. This request can be made at any time prior to a final determination. MSP will obtain voluntary, written confirmation that all Parties and the Policy Administrator agree to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate.

The Informal Resolution Facilitator must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker who would engage in the Administrative Resolution Process if Informal Resolution were unsuccessful.

The Parties may agree, as a condition of engaging in Informal Resolution, on what evidence elicited during the Informal Resolution process can be considered in the Administrative Resolution Process, should Informal Resolution not be successful. If such an agreement is not reached, statements and evidence shared during Informal Resolution will be available during the Administrative Resolution Process if the matter is not informally resolved.

If an investigation is already underway when Parties enter into Informal Resolution, the Policy Administrator has discretion to determine if the investigation will be paused, limited, or continued during the Informal Resolution process. Informal Resolution Agreements may only be binding on the Parties. They cannot include requirements or restrictions for persons or groups who are not a Party to the Informal Resolution Process.

Although a non-disclosure agreement (NDA) could result from Informal Resolution, it must be mutually agreed upon by the Parties and not coerced, as verified by the Policy Administrator.

## **I. Informal Resolution Framework**

Informal Resolution can be used in any discrimination, harassment, retaliation, or Other Prohibited Conduct complaint but may not be appropriate or advisable in all matters. Situations involving dangerous patterns or significant ongoing threat to the community will generally not be resolved by Informal Resolution unless a Respondent accepts responsibility. The Administrator has the authority to determine whether to permit Informal Resolution, in line with any applicable federal or state requirements.

The Informal Resolution Facilitator will establish clear rules for managing/facilitating the process to ensure they are civil, culturally competent, reflective of an effort to neutralize power imbalances, and maximize the potential for the Informal Resolution process to result in an amenable resolution. Any Party can withdraw from the Informal Resolution process at any time before an agreement is reached. An Informal Resolution Facilitator can also end an Informal Resolution process early at their discretion. If Informal Resolution fails, a Resolution Process can take place thereafter.

## **II. Notice of Investigation of Allegations (NOIA) for Informal Resolution**

If a Formal Complaint has been filed, MSP will provide the Parties with a NOIA prior to the initiation of an Informal Resolution process. The NOIA will explain:

- The allegations.
- The requirements of the Informal Resolution process.

- That, prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution process and to initiate or resume MSP's Administrative Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information MSP will maintain, and whether and how it could disclose such information for use in its Resolution Process.

### III. Categories of Informal Resolution:

Michigan School of Psychology offers four categories of Informal Resolution:

1. **Supportive Resolution:** When the Policy Administrator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.

The Policy Administrator will meet with the Complainant to determine reasonable supportive measures designed to restore or preserve the Complainant's access to MSP's education programs and activities. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Policy Administrator may also provide reasonable supportive measures for the Respondent as deemed appropriate.

This option is available when the Complainant does not want to engage in the other resolution options, and the Policy Administrator does not initiate a Complaint.

2. **Educational Conversation:** When the Policy Administrator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.

The Complainant(s) may request that the Policy Administrator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Policy Administrator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

- 3. Accepted Responsibility:** When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and MSP are agreeable to the resolution terms.

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all alleged Policy violations, the ongoing process will be paused, and the Policy Administrator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Policy Administrator will determine whether all Parties and the Policy Administrator are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Policy Administrator implements the accepted finding that the Respondent is in violation of this Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate MSP administrators, such as the Director of Human Resources and Vice President of Academics, as appropriate.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination, harassment, retaliation, and other Prohibited Conduct, prevent its recurrence, and remedy the effects on both on the Complainant and the community.

- 4. Alternative Resolution:** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

MSP offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Policy Administrator or other appropriate MSP officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Policy Administrator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the alternative resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Policy Administrator has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

#### **IV. Appeals**

The results of Complaints resolved by Informal Resolution are not appealable.

### **SECTION TEN: ADMINISTRATIVE RESOLUTION PROCESS**

The Administrative Resolution Process typically takes approximately ninety (90) days to complete. The Parties will be regularly updated on the timing and any significant deviation from this typical timeline. MSP may consolidate Complaints against more than one Respondent or filed by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances, or implicate a pattern, collusion, and/or other shared or similar actions.

#### **I. Resolution Process Pool**

The Resolution Process relies on a pool of trained administrators (“Pool”) to carry out the process.<sup>8</sup>

### **1. Pool Member Roles**

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Policy Administrator:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

### **2. Pool Member Appointment**

The Policy Administrator, in consultation with senior administrators as necessary, appoints members of the Pool to their respective roles, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles in the Resolution Process, MSP can also designate permanent roles for individuals in the Pool.

## **II. Notice of Investigation and Allegations (NOIA) for Administrative Resolution**

Prior to initiating an Administrative Resolution Process, the Policy Administrator, or designee, will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the Resolution Process progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the Respondent department/office/program head for the area/program.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged

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<sup>8</sup> Pool members will receive annual training. External, trained third-party neutral professionals may also be used to serve in all roles of the Resolution Process.



- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator, along with a process to notify the Policy Administrator of any conflict of interest that the Investigator may have in advance of the interview process
- A statement that MSP presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share MSP work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that MSP's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a Party may request disability accommodations or other support assistance during the Resolution Process
- A link to MSP's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official MSP records, or emailed to the Parties' MSP-issued email or designated accounts. Once mailed, emailed, and/or received in-person, the notification will be presumptively delivered.

### **III. Investigator Appointment**

Once an investigation is initiated, the Policy Administrator will appoint an Investigator to conduct it. Investigators may be members of MSP Resolution Process Pool or any other properly trained Investigator, whether internal or external to MSP's community.

### **IV. Witness Role and Participation in the Investigation**

Employees (not including Parties) are required to cooperate with and participate in MSP's Resolution Process. Student Witnesses and Witnesses from outside the MSP community cannot be required to participate but are encouraged to cooperate with investigations and share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. MSP will take appropriate steps to ensure the security/privacy of remote interviews.

If deemed appropriate by the Investigator, Parties and Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions.

## **V. Evidentiary Considerations**

The Investigator will only consider evidence that is deemed relevant and not otherwise impermissible.

### **1. Relevant Evidence**

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

### **2. Impermissible Evidence**

Evidence relating to the Complainant's sexual interests or prior sexual conduct is impermissible unless:

- a. offered to prove that someone other than the Respondent committed the alleged conduct, or
- b. specific incidents of prior sexual conduct between the Parties are offered to prove that the Respondent did not engage in the alleged conduct. (Evidence of prior consensual sexual conduct between the Parties does not, by itself, demonstrate or imply the Complainant's consent or prevent a determination that sex-based harassment occurred.)

### **3. Medical Records**

Introduction of or inquiry about a Party or Witness's medical records is impermissible unless the Party or Witness provides voluntary written consent for the records to be considered.

### **3. Previous Discipline**

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct, or when determining an appropriate sanction upon a finding of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

### **4. Character Witnesses**

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

## **VI. Admission of Responsibility**

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their final determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the final determination or sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

## **VII. Investigation**

Investigations are adequate, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and Witnesses, obtaining relevant evidence, identifying sources of information, drafting a thorough Investigation Report, and ensuring due process.

All interviews, including follow-up interviews, are recorded, and all involved persons are made aware of the audio and/or video recording. The Investigator will draft a summary of the recorded statement. Parties and Witnesses will be asked to verify the accuracy of the written summary of their interview, and they may submit edits, clarifications, or additional information. If the Parties or Witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording or summary will be deemed to have been waived. Witnesses will not view any statement summaries other than their own.

Parties will be afforded the opportunity to suggest Witnesses, request that specific questions be asked of each other and the Witnesses, submit evidence, and review the evidence submitted by the other Party or collected independently by the Investigator. The Investigator will ask those questions deemed relevant and provide a rationale for not asking any question deemed not relevant. The Investigator will provide the Parties with regular status updates throughout the investigation.

### **1. Steps of the Investigation:**

Investigators typically take the following steps, not necessarily in this order:

- Identify the Complainant and gather their contact information.
- Contact the Complainant and invite them to be interviewed.
- Assist the Policy Administrator, as needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Policy Administrator, as necessary, to prepare the initial NOIA, which may be amended during the investigation with additional or dismissed allegations.

- Develop a strategic investigation plan, including a Witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and Witnesses.
- When Party participation is expected, provide that Party with written notification of the date, time, location, and purpose of the meeting.
- Interview the Parties and Witnesses, conducting follow-up interviews as needed.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and interviews, and identifies all relevant evidence. The Investigator may share the Investigation Report with the Policy Administrator and/or legal counsel for their review and feedback.

## **2. 10-Day Review Period**

When the Draft Investigation Report is complete, the Investigator will contact the Parties to schedule a 10-day review period. Parties and their respective Advisors will be provided an electronic copy of the Draft Investigation Report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) days, so that each Party may meaningfully respond to the evidence and testimony. The Parties may elect to waive all or part of the 10-day review period.

Parties may provide additional information or evidence, request that the Investigator conduct additional interviews, or request that additional investigative steps be taken. The Investigator will complete their investigation and draft a Final Investigation Report

## **3. Final Determination**

The Investigator will review all of the collected statements and evidence, conduct a credibility analysis, and apply the Preponderance of the Evidence standard of proof to determine whether the Respondent violated this Policy. Credibility determinations may not be based solely on an individual's status or participation as a Party or Witness.

## **VIII. False Allegation and Evidence**

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead any official conducting an investigation or otherwise engaged in the Resolution Process can be subject to discipline under appropriate MSP policies.

## **IX. Withdrawal or Resignation Before Complaint Resolution**

## **1. Students**

If the Party indicates that they are withdrawing from MSP and will not return, the Policy Administrator may exercise their discretion to dismiss the Complaint.

If a Party chooses not to participate in the Resolution Process, the process will proceed absent their participation.

If a student Respondent withdraws or leaves while the Resolution Process is pending, the student may not return to MSP in any capacity until the Complaint is resolved and any imposed sanctions are satisfied, and a transcript notation may indicate that the student withdrew with conduct charges pending.

If a student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to MSP unless and until all sanctions, if any, have been satisfied.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, MSP will continue to remedy any systemic issues that may have contributed to the alleged violation(s) and address any ongoing effects of the alleged conduct. MSP will provide reasonable supportive or remedial measures as deemed appropriate.

## **2. Employees**

If an employee Respondent chooses not to participate in the Resolution Process, the process will proceed absent their participation. If an employee Respondent leaves their employment with MSP with unresolved allegations pending, the Resolution Process may continue, or the Policy Administrator may exercise their discretion to dismiss the Complaint.

When an employee resigns and the Complaint is dismissed, the employee may not return to MSP in any capacity. The Human Resources Department will be notified, accordingly. A note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with MSP. The records retained by the Policy Administrator will reflect that status.

If the Complaint is dismissed, MSP may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, retaliation, and/or Other Prohibited Conduct.

## **X. Standard of Proof**

MSP uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the Investigator will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy.

## **XI. Notice of Outcome**

Within ten (10) days of the conclusion of the Resolution Process, the Policy Administrator will provide the Parties, simultaneously or without significant time delay between notifications, with a Notice of Outcome. The Notice will:

1. Specify the finding for each alleged Policy violation;
2. List all applicable sanctions;
3. Include a detailed rationale, written by the Investigator, supporting the findings;
4. Detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no Party appeals.

The written outcome notification may be delivered by one or more of the following methods: in-person, mailed to the Parties' local or permanent address as indicated in official MSP records, or emailed to the Parties' MSP-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

## **XII. Appeal of Determination**

The Policy Administrator will designate an Appeal Decision-maker, an individual chosen from the Pool, or other trained internal or external individual, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process.

### **1. Appeal Grounds**

Appeals are limited to the following grounds:

- a. A procedural irregularity that would change the outcome.
- b. New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- c. The Policy Administrator and/or the Investigator had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent, that would change the outcome.
- d. The Final Determination is substantially contrary to the weight of the evidence in the record.

- e. The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent.

## **2. Request for Appeal**

Any Party may submit a written request for appeal (“Request for Appeal”) to the Policy Administrator within five (5) days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal. This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

- a. If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.
- b. If any of the information in the Request for Appeal meets the grounds in this Policy, the Appeal Decision-maker will notify all Parties and their Advisors, the Policy Administrator, and, when appropriate, the Investigator and/or the original Decision-maker.

All other Parties and their Advisors, the Policy Administrator, and, when appropriate, the Investigator and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and be given five (5) days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing Party, if any, may choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the Party who initially requested an appeal, the Policy Administrator, and the Investigator and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.

No Party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

## **3. Appeal Determination Process**

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s). Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error, and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. The Decision-maker will apply the preponderance of the evidence standard of proof.

The Appeal Decision-maker may consult with the Policy Administrator and/or legal counsel on questions of procedure or rationale. The Policy Administrator will maintain documentation of all such consultation.

#### **4. Appeal Outcome**

An appeal may be granted or denied. Appeals that are granted should normally be remanded (fully or partially) to the original Investigator with corrective instructions for reconsideration. In rare circumstances, where an error cannot be cured by the original Investigator or the Policy Administrator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which MSP is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent MSP is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address(es) as indicated in official MSP records, or emailed to the Parties’ MSP-issued email or designated accounts. Once mailed, emailed, and/or received in-person, the Appeal Outcome will be presumptively delivered.

When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures. If a remand results in a new determination that is different from the



appealed determination, that new determination can be appealed, once, on any of the five (5) available appeal grounds.

## **5. Sanction Status During the Appeal**

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed on page 30) will be followed.

## **XIII. Amnesty**

MSP encourages the reporting of misconduct and crimes by Complainants and Witnesses. Sometimes, Complainants or Witnesses are hesitant to give Notice to MSP officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the MSP community that Complainants choose to give Notice of misconduct to MSP officials, that Witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, MSP offers Parties and Witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by MSP, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

## **SECTION ELEVEN: ADVISORS IN THE RESOLUTION PROCESS**

### **I. Who Can Serve as an Advisor?**

The Parties may each have an Advisor of choice (friend, mentor, family member, attorney, or any other individual a Party chooses) present with them for all meetings and interviews within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>9</sup>

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<sup>9</sup> "Available" means the Party cannot insist on an Advisor who does not have inclination, time, or availability. The Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a

The Policy Administrator will offer to assign a trained Advisor to any Party if the Party chooses. Advisors will not be asked to disclose details of their interactions with their Advisees to institutional officials or Decision-makers absent an emergency.

MSP cannot guarantee equal Advisory rights, meaning that if one Party selects an Advisor who is an attorney, but the other Party does not, or cannot afford an attorney, MSP is not obligated to provide an attorney to advise that Party.

Parties are not obligated to use the same Advisor throughout the Resolution Process. Parties are expected to promptly notify the Policy Administrator when they have selected an Advisor, including the Advisor's name and contact information, and provide timely notification if they change Advisors. If a Party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

MSP may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Policy Administrator. The decision to grant this request is at the Policy Administrator's sole discretion and will be granted equitably to all Parties.

## **II. Advisor's Role in the Resolution Process**

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their Advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their Advisee, the Advisor may consult with their Advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

## **III. Records Shared with Advisors**

Advisors are entitled to the same opportunity as their Advisee to access relevant evidence and the Draft Investigation Report. Advisors are expected to maintain the confidentiality of the records MSP shares with them, per Section Six of this Policy addressing confidentiality. Advisors may not disclose any MSP work product or evidence MSP obtained solely through the Resolution Process for any purpose not explicitly authorized by MSP.

MSP may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by MSP confidentiality expectations.

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Witness in the process creates potential for bias and conflicts of interest. A Party who chooses an Advisor who is also a Witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). MSP may decline to share materials with any Advisor who has not executed the NDA. MSP may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by MSP confidentiality expectations.

#### **IV. Advisor Expectations**

MSP generally expects an Advisor to adjust their schedule to allow them to attend MSP meetings/interviews when planned, but MSP may change scheduled meetings/interviews to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

MSP may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same MSP policies and procedures, whether they are attorneys or not, and whether they are selected by a Party or appointed by MSP. Advisors are expected to advise without disrupting proceedings.

#### **V. Advisor Policy Violations**

Any Advisor who oversteps their role as defined by this Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with MSP's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview may be ended, or other appropriate measures implemented, including MSP requiring the Party to use a different Advisor or providing a different MSP-appointed Advisor. Subsequently, MSP will determine how to address the Advisor's non-compliance and future role.

Appropriate measures will be implemented if an Advisor oversteps their role as defined by this Policy, shares information or evidence in a manner inconsistent with the Policy, disrupts or otherwise fails to respect the limits of the Advisor role, or refuses to comply with MSP's established rules of decorum. Appropriate measures include, but are not limited to, a warning, ending a meeting/interview, or requiring the Party to use a different Advisor or providing a different MSP-appointed Advisor. Subsequent to a violation, MSP will determine how to address the Advisor's non-compliance and future role.

#### **SECTION TWELVE: SANCTIONS**

An individual found responsible for engaging in Prohibited Conduct under this Policy may receive any sanction ranging from a warning to expulsion or termination, as determined by a Decision-maker. The sanctions will be implemented as soon as it is feasible, once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

Student sanctions will be determined by the Policy Administrator and employee Sanctions will be determined by the Director of Human Resources. After the appeal period has concluded, and the determination is final, the Policy Administrator will notify the “Sanction Decision-maker” of the investigation outcome.

Factors the Sanction Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, retaliation, and/or Other Prohibited Conduct
- The need to remedy the effects of the discrimination, harassment, retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent’s acceptance of responsibility
- Any other information deemed relevant by the Decision-maker(s)

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

Consideration will be given to aggravating or mitigating circumstances as well as the Respondent’s cumulative conduct and/or Personnel record. Sanctions and corrective actions can include, but are not limited to:

## **I. Student Sanctions**

- Verbal warning
- Written warning
- Disciplinary hold on academic and/or financial records
- Educational or Clinical Training Development Plan
- Required counseling or coaching
- Required training or education
- Campus access restrictions
- No trespass order issued
- No-contact directive (with respect to an individual)
- Revocation of admissions offer
- Revocation of degree
- Disciplinary suspension

- Dismissal

## II. Employee/Student Employee

- Loss of privileges
- Loss of title and/or honors
- Loss of oversight, teaching or supervisory responsibility
- Probation
- Demotion
- Loss of pay increase
- Decrease in pay
- Revocation of employment offer
- Suspension with pay
- Suspension without pay
- Termination of employment
- Termination of contract

## III. Student Group/Organization Sanctions

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any MSP policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Probation:** An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of MSP funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student group or organization recognition and/or institutional support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in MSP-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the MSP.
- **Expulsion:** Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- **Loss of Privileges:** Restricted from accessing specific MSP privileges for a specified period of time.

- **Other Actions:** In addition to or in place of the above sanctions, MSP may assign any other sanctions as deemed appropriate.

MSP may impose other sanctions, as appropriate, in accordance with relevant MSP policies and/or procedures.

## **SECTION THIRTEEN: RECORDKEEPING**

### **I. Record Retention**

For a period of at least seven (7) years following the conclusion of the Resolution Process, MSP will maintain records of:

- Each discrimination, harassment, retaliation, and Other Prohibited Conduct resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- Any disciplinary sanctions imposed on the Respondent.
- Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to MSP's education program or activity.
- Any appeal and the result therefrom.
- Any Informal Resolution and the result therefrom.
- All materials used to provide training to the Policy Administrator, Pool Members, and any person who is responsible for implementing MSP's Resolution Process, or who has the authority to modify or terminate supportive measures. MSP will make these training materials available for review upon request.
- All materials used to train all employees consistent with the requirements in the Title IX Regulations.

MSP will also maintain any and all records in accordance with federal and Michigan state laws.

### **II. Revision of These Procedures**

These procedures succeed any previous procedures addressing discrimination, harassment, retaliation, and Other Prohibited Conduct for incidents occurring on or after August 1, 2024. The Policy Administrator will regularly review and update these procedures. MSP reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

### **III. Policy Dissemination and Training**

A copy of this policy will be made available to students and employees in annually required training and posted on the MSP website. MSP will alert all new students about this policy and the location of this policy as part of orientation. MSP will make educational materials available to all members of the MSP community to promote compliance with this policy and familiarity with its procedures.

### **IV. Effective Date**

These procedures are effective August 1, 2024.

## **SECTION FOURTEEN: FEDERAL TIMELY WARNING AND STATISTICAL REPORTING OBLIGATIONS**

### **I. Federal Timely Warning Obligations**

MSP must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the MSP community. MSP will ensure that a Complainant'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 potential danger.

### **II. Federal Statistical Reporting Obligations**

Certain institutional officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

1. All "primary crimes," which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
2. Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
3. Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking<sup>10</sup>
4. Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

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<sup>10</sup> 42 U.S.C. Sections 13701 through 14040.

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with the Clery Coordinator for publication in the Annual Security Report and daily campus crime log.<sup>11</sup>

## **SECTION FIFTEEN: CAMPUS CLIMATE SURVEY**

MSP conducts a biannual sexual misconduct climate survey of all students. The goal of this survey is to help MSP leadership understand students' experiences and perceptions on campus and identify areas for improvement to help students feel safe and respected. The surveys can also help identify needs, improve policies and programs, and support Parties. Questions will not require the disclosure of any personally identifying information and are trauma informed. MSP shall compile a summary of the results including, but not limited to, the complete aggregated results for each base survey question, and shall publish the summary on the institution's website in an easily accessible manner.

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<sup>11</sup> For more information about Campus Safety and Security, and to view the Annual Security Report, visit <https://msp.edu/about/consumer-information/annual-safety-and-security-report/>



## **APPENDIX A: PREGNANCY AND RELATED CONDITIONS**

### **I. Non-Discrimination Statement**

MSP does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). MSP prohibits members of the MSP community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status. This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

### **II. Definitions**

**Familial Status.** The configuration of one's family or one's role in a family.

**Marital Status.** The state of being married or unmarried.

**Parental Status.** The status of a person who, with respect to another person who is under the age of 18, is a biological parent, adoptive parent, foster parent, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.

**Pregnancy and Related Conditions.** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.

**Reasonable Modifications.** Individualized modifications to MSP's policies, practices, or procedures that do not fundamentally alter MSP's education program or activity.

### **III. Information Sharing Requirements**

Any MSP employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Policy Administrator's contact information and communicate that the Policy Administrator can help take specific actions to prevent discrimination and ensure equal access to MSP's education program and activity. If the employee has a reasonable belief that the Policy Administrator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Policy Administrator's contact information.

Upon notification of a student's pregnancy or related condition, the Policy Administrator will contact the student and inform the student of MSP's obligations to:

1. Prohibit sex discrimination.
2. Provide reasonable modifications.
3. Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity.
4. Allow a voluntary leave of absence.
5. Ensure lactation space availability.
6. Maintain a Resolution Process for alleged discrimination.
7. Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Policy Administrator will also notify them of the process to file a complaint for alleged discrimination, harassment, retaliation, or Other Prohibited Conduct, as applicable.

#### **IV. Reasonable Modifications**

Students and employees who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to MSP's education program and activity. Any student seeking Reasonable Modifications must contact the Policy Administrator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

1. Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
2. Intermittent absences to attend medical appointments
3. Changes in schedule or course sequence
4. Time extensions for coursework and rescheduling of tests and examinations
5. Allowing a student to sit or stand, or carry or keep water nearby
6. Changes in physical space or supplies (for example, access to a larger desk or a footrest)
7. A larger uniform or other required clothing or equipment
8. Other modifications to policies, practices, or procedures determined by the Policy Administrator

At times, in situations such as internships, practicums, performances, labs, or group work, a student may need a modification in the path to completion. Each instance will be evaluated for possible options. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses,

or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and MSP's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Policy Administrator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer or to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Policy Administrator will consult with Disability Services staff to ensure the student receives reasonable accommodations for their disability as required by law.

## **V. Certification to Participate**

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

1. The certified level of physical ability or health is necessary for participation;
2. The institution requires such certification of all students participating; and
3. The information obtained is not used as a basis for pregnancy-related discrimination.

## **VI. Lactation Space Access**

MSP provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

## **VII. Leaves of Absence**

### **1. Students**

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity.

To the extent possible, MSP will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students' scholarships, fellowships, or similar MSP-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar MSP-supported funding by exercising their rights under this policy.

In order to initiate a leave of absence, the student must contact the Policy Administrator at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Policy Administrator will assist the student in completing any necessary paperwork.

## **2. Employees**

Information on employment leave can be found in the MSP Employee Handbook.

If an employee, including a student-employee, is not eligible for leave because they either (1) do not have enough leave time or (2) have not been employed long enough to qualify, they are eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.