

University of Michigan-Flint
Annual Report Regarding Institutional Response to Reports of
Prohibited Conduct by Faculty, Staff, Students and Third Parties
July 2018 - June 2019



Office of Human Resources
November 2019



November 2019

Dear University of Michigan-Flint Community:

This is the third report regarding sexual misconduct issued on behalf of the University. This report covers issues that have been addressed by the University from July 1, 2018 through June 30, 2019. Additionally, the previous reports were issued biennially and only included matters related to students. As the first of its kind for our campus community, information shared in this report will also include matters related to faculty, staff and third parties.

On January 7, 2019, the University adopted a new interim policy to more effectively address reports of student sexual misconduct. The [University of Michigan-Flint Interim Policy and Procedures on Student and Gender-Based Misconduct and Other Forms of Interpersonal Violence](#) (“Student Sexual Misconduct Policy”) has replaced the [University of Michigan-Flint Student Sexual Misconduct Policy](#) as the policy that addresses reports involving students. The information contained in this report will reflect some of the changes in the University’s response to student sexual misconduct reports, as well as contain information from reports received and addressed under the former policy.

As mentioned in our previous reports, the information contained in this report represents the collaborative efforts of many campus partners working together to effectively address the issues covered in our sexual misconduct policies. This report is intended to provide insight into the number of complaints reported to and addressed by the University, as well as the process by which complaints are handled. In composing this report, we have been mindful of our responsibility to balance the educational benefits of sharing as much information as is appropriate about these matters, while at the same time respecting the privacy of those involved.

We want this report to be useful to you. Therefore, if you have any feedback to offer on how this report can be improved, please feel free to forward your comments to InstitutionalEquityFlint@umich.edu.

Thank you for continued commitment to addressing this important issue.

Sincerely,

A handwritten signature in black ink that reads "Kirstie J. Stroble".

Kirstie J. Stroble
Institutional Equity Specialist

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Introduction

Please provide any feedback regarding the content or format of this document to UM-Flint's Institutional Equity Specialist:

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213 University Pavilion
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InstitutionalEquityFlint@umich.edu

or the University's Title IX Coordinator:

Elizabeth Seney
Title IX Coordinator
Office for Institutional Equity
2072 Administrative Services Building
1009 Greene Street, Ann Arbor, MI 48109-1432
(734) 763-0235
institutional.equity@umich.edu

All comments are appreciated and will be considered as we develop future reports.

I. What Conduct is Prohibited?

The University's policies prohibit sexual misconduct. The University of Michigan-Flint Interim Policy and Procedures on Student Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence ("Student Sexual Misconduct Policy") is used to address reports of sexual misconduct by students; and the University's Sexual Harassment (SPG 201.89-0) and Violence in the University Community (SPG 601.18) policies ("Sexual Misconduct SPGs") are used to address reports by Faculty, Staff and Third Parties.¹

¹ When referencing all of the policies collectively, the term "Policy" is used in this report.

The Student Sexual Misconduct Policy prohibits sexual misconduct, which encompasses a wide variety of behavior, from unwanted sexual comments, which may constitute sexual harassment under the Policy, to sexual assault. The Student Sexual Misconduct Policy also prohibits intimate partner violence, stalking, and gender-based harassment, as well as retaliation and violation of interim measures related to an underlying complaint of sexual assault, stalking, intimate partner violence, or sexual or gender-based harassment.

The Sexual Misconduct SPGs prohibit sexual harassment, retaliation, intimate partner violence and some forms of stalking. Gender-based discrimination and harassment is also prohibited and is addressed under the Discrimination and Harassment policy (SPG 201.89-1).

These collective behaviors are referred to as “Prohibited Conduct” within this report. However, of the faculty, staff and third-party matters that were reported, none of the reported conduct fell under the *Violence in the University Community* policy. All faculty, staff and third-party matters fell within the *Sexual Harassment* and the *Discrimination and Harassment* policies. Whether certain behavior constitutes Prohibited Conduct depends greatly upon the circumstances surrounding the behavior. This report contains data about concerns of Prohibited Conduct reported to the Institutional Equity Specialist (IES) during the past year. It is important to note that while some of these concerns are reported as Prohibited Conduct, in some cases, the reported behavior turns out not to relate to this Policy, as further discussed in this report.

To read the definitions of Prohibited Conduct as set forth for each respective group’s policies, please visit:

Faculty, Staff and Third Parties:

Sexual Harassment Policy: <https://spg.umich.edu/policy/201.89-0>; Violence in the University Community Policy: <https://spg.umich.edu/policy/601.18>; Discrimination and Harassment Policy: <https://spg.umich.edu/policy/201.89-1>

Students:

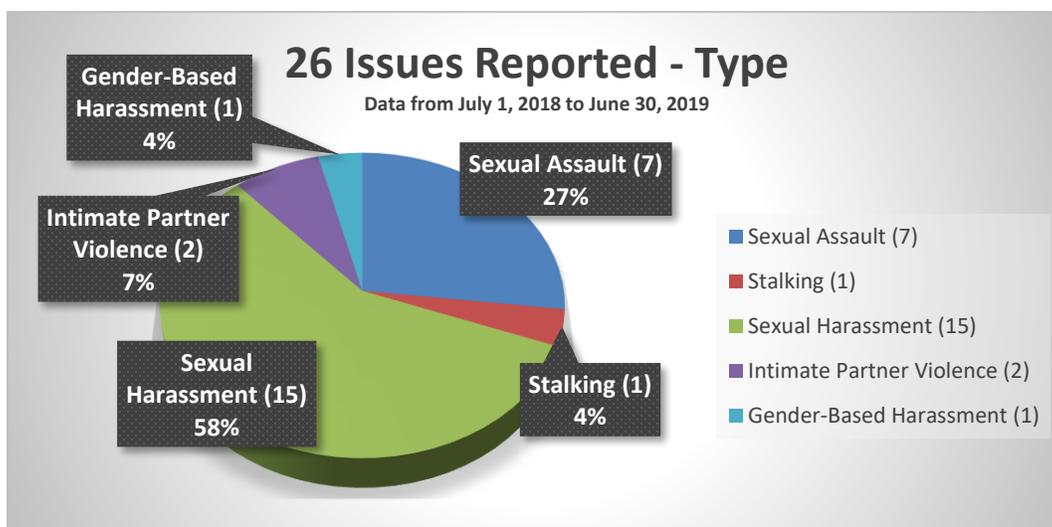
Current Interim Student Sexual Misconduct Policy (effective January 7, 2019): https://www.umflint.edu/sites/default/files/groups/Human_Resources/flintfinalssmp_01.07.2019_0.pdf.

Former Student Sexual Misconduct Policy (September 2014 to January 6, 2019): https://www.umflint.edu/sites/default/files/groups/Human_Resources/student_sexual_misconduct_policy_fall_2014.pdf.

II. The Number of Reports of Prohibited Conduct

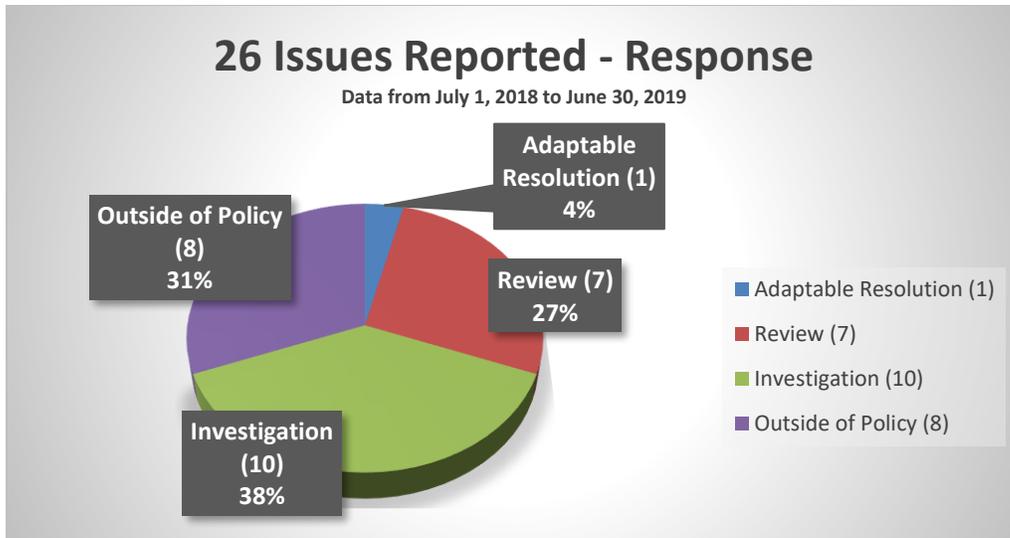
The University encourages every member of its campus community to report Prohibited Conduct. From July 1, 2018 to June 30, 2019, the IES received 26 reports of Prohibited Conduct. A report can be made by anyone who experienced Prohibited Conduct, who witnessed it, who has heard about it, or who otherwise has knowledge of possible Prohibited Conduct. We encourage reporting because it allows the University to provide for the safety and well-being of both individual community members and the overall campus community. It also allows us to provide resources and support for those impacted by the reported misconduct. There are a variety of ways to report a sexual misconduct concern, including a report directly to the IES or the Department of Public Safety.

From July 1, 2018 through June 30, 2019, 26 incidents were reported to the IES via various mechanisms.



III. How the Prohibited Conduct Reports Were Addressed

The IES followed up on all 26 reports to determine appropriate next steps. Of those 26 reported incidents, as discussed more fully below, eight were determined not to fall within the scope of the Policy, seven were reviewed by the IES and Title IX Coordinator and the Title IX Coordinator determined not to proceed with an investigation based upon the information available, and nine proceeded to investigation; and one requested adaptable resolution (as discussed later on in this report).



Although the specific nature of the actions taken by the University varies from case-to-case depending upon multiple factors², the University’s process for responding to a report of Prohibited Conduct may include: (1) the provision of confidential support and other resources to the complainant and the respondent; (2) interim measures, including but not limited to separation of the Complainant/Claimant’s³ and Respondent’s work, academic and/or living situations; (3) review by IES, the Title IX Coordinator, a representative from OGC, and any other necessary staff for a determination regarding next steps based upon the available information; (4) adaptable resolution; (5) an investigation; (6) investigation findings; (7) corrective action/sanctions; and (8) an appeal of the investigation findings and/or sanctions for students and the opportunity to grieve the finding for faculty or staff.

The two most significant factors that affect how the institution addresses Prohibited Conduct concerns are: (1) how much information is available (e.g., whether the Respondent can be identified) and (2) whether the Complainant/Claimant (if the Complainant/Claimant’s identity is known) is willing to be involved in an investigation and/or identified as having come forward with a complaint. For example, a Complainant/Claimant may report that s/h/ze was sexually assaulted, but may not – or may not be able to – provide the University with the name of the person who assaulted him/her/zir or other identifying information at that time. The IES follows up with the Complainant/Claimant to try to obtain that information; however, if the information is not available, generally an investigation is not possible unless the information is provided by a third party or the University is otherwise able to discern the identity of the person. In such an instance, the University would offer resources and support to the Complainant/Claimant, including interim measures (see below). The University would also ensure the

² Including whether a person is a faculty, staff, third party or student.

³ The term “Complainant” is used for faculty, staff and third-party cases, and the term “Claimant” is used for student cases. The term “Respondent” is used in faculty, staff and third-party cases. However, going forward, the term “Complainant” will be used for all faculty, staff, third party and student cases.

Complainant/Claimant is aware that s/h/ze may come forward with details at a later date, at which time the University will take further action as appropriate. If the matter involves possible criminal activity, the IES would also report it to the University of Michigan-Flint Department of Public Safety (DPS) as required by law.

The following is a discussion of the various actions taken by the University in response to each of the 26 Prohibited Conduct reports:

a. Resources and Interim Measures

One of the first steps the University takes when a Prohibited Conduct concern is raised is to offer the Complainant/Claimant (and, subsequently, the Respondent) resources and support. The type of resources offered depends on the Complainant/Claimant's and Respondent's affiliation with the University. Complainants and Respondents that are faculty and staff are both offered resources and support, including confidential resources⁴ such as Faculty and Staff Counseling and Consultation Office ("FASCCO") and the Faculty Ombuds. The Department of Public Safety ("DPS") is also informed of Prohibited Conduct reports that are criminal in nature.

Claimants and Respondents that are students are both offered support through the Center for Gender and Sexuality ("CGS"), by utilizing separate staff members for each party. In addition, students have access to a number of other support resources on campus, including but not limited to Counseling and Psychological Services ("CAPS"), the Sexual Assault Advocate (in CGS), and the Office of the Ombuds. CAPS and the Sexual Assault Advocate are confidential resources.

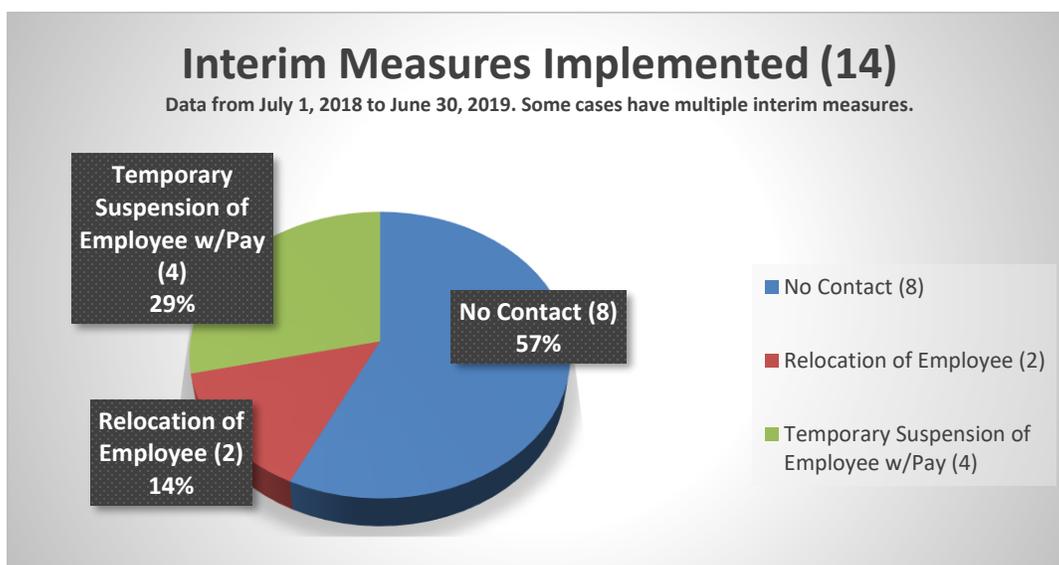
Another aspect of the support provided by the University is to offer "interim measures." Interim measures are steps taken to provide for the safety and well-being of the parties and/or the campus community and can include a variety of actions taken by various offices on campus. When interim measures are undertaken, no assumptions are made as to whether the Respondent engaged in Prohibited Conduct; rather, the assessment of whether and what interim measures are appropriate focuses on safety and preventing the possibility of harm as the investigation is pending. Examples of interim measures include safety escorts, "no contact" directives, changes to academic or work schedules, interim or temporary suspension with pay, campus schedule modification etc. Many different types of interim measures are offered when Prohibited Conduct is brought to the IES's attention, regardless of whether the Complainant/Claimant wants to file a complaint with the IES and/or report the matter to the police. Interim measures are determined on a case-by-case basis, depending upon the needs of the parties involved and the nature of the

⁴ Confidential resource means that disclosures of sexual misconduct made to these offices are not reported to the IES; however, these offices can assist students who wish to report sexual misconduct concerns.

sexual misconduct concerns. Consistent with federal guidance, interim measures are put in place with the least possible burden to the Complainant/Claimant.

During the reporting period, interim measures and resources were made available when the identity of one or more of the parties was known. Interim measures were implemented in eight of its ten investigations; in the remaining matters, interim measures were either offered, but the offer was not accepted or interim measures were not necessary, given the known circumstances.

In those eight cases in which interim measures were put in place, the nature and type of interim measure varied. The specific interim measures depend upon a Complainant/Claimant's request and the University's assessment of what is necessary and appropriate to provide for the safety and well-being of the Complainant/Claimant and the campus community. In six cases, more than one interim measure was put in place, resulting in a total number of 14 interim measures.



In all of the eight cases where interim measures were implemented, the Respondent was instructed not to have contact with the Complainant/Claimant.⁵ In four of those cases, the University also placed an employee on a temporary suspension with pay; and in two cases, the University relocated an employee's workspace. No housing accommodations were needed in any of the seven cases. Housing accommodations include actions such as relocating or removing a student Respondent from housing⁶ providing emergency housing on or off campus, restricting a student Respondent from a particular residence hall or area of a residence hall, etc. Dining

⁵ There are instances in which a no contact directive is not issued. This may occur, for example, when the Respondent is not affiliated with the University, his/her/zir identity is not known to the University, or a Complainant specifically requests anonymity and the directive cannot be issued without identifying the Complainant. In each matter that results in an investigation, the Respondent is directed not to have any contact with the Complainant.

⁶ If the Claimant prefers, the Claimant will be relocated.

accommodations also can be made, but none were necessary. Examples of dining accommodations include restricting use of a certain dining hall, either entirely or during certain hours, or providing a student with access to alternate dining accommodations.

No academic accommodations were necessary. Academic accommodations can include, but are not limited to, actions such as changing class schedules so that the parties are not in the same course, removing a student Respondent from an academic program, changing a seating chart, or informing faculty that a student may need an extension for assignments or exams and/or may miss classes. Other interim measure areas were also available, but were not implemented during the reporting period.

Finally, we note that there may be instances in which the University has provided interim measures and support to a party, but the data is not captured in this report. For example, a party may seek assistance before reporting their concerns to the IES or the student may never report their concerns to the IES. In addition, sometimes the Center for Gender and Sexuality and/or other offices may assist a student with a wide variety of matters, such as seeking a personal protection order, assistance and support addressing the matter through the criminal justice system, etc. While every effort has been made to accurately account for interim measures in this report, we acknowledge that additional informal measures may have been provided that are not accounted for here.

b. Reported Incidents that Did Not Fall Under the Policy

In some instances, the IES receives reports of Prohibited Conduct that, upon review, are determined not to fall under the Policy. For example, some reports involve behavior that, even if proven, would not constitute sexual misconduct. Of the 26 reported incidents during the reporting period, eight were not within the scope of the Policy. If the underlying behavior is inappropriate or a violation of another University policy, the matter will be referred by the IES to the appropriate office for follow up. In other cases the reported behavior was committed by an individual who is not affiliated with the University. For instance, a student may report a sexual assault that occurred while the student was traveling in another state by a person who has no association with the University. This student would still be offered resources and support through the University. Or, for example, the University may receive a report from a third party, but the person who is reported to have experienced the unwanted behavior informs the IES that they have not in fact experienced any unwelcome sexual conduct. Again, the student would be offered resources and support and encouraged to contact the IES if any unwanted conduct of a sexual nature were to occur in the future.

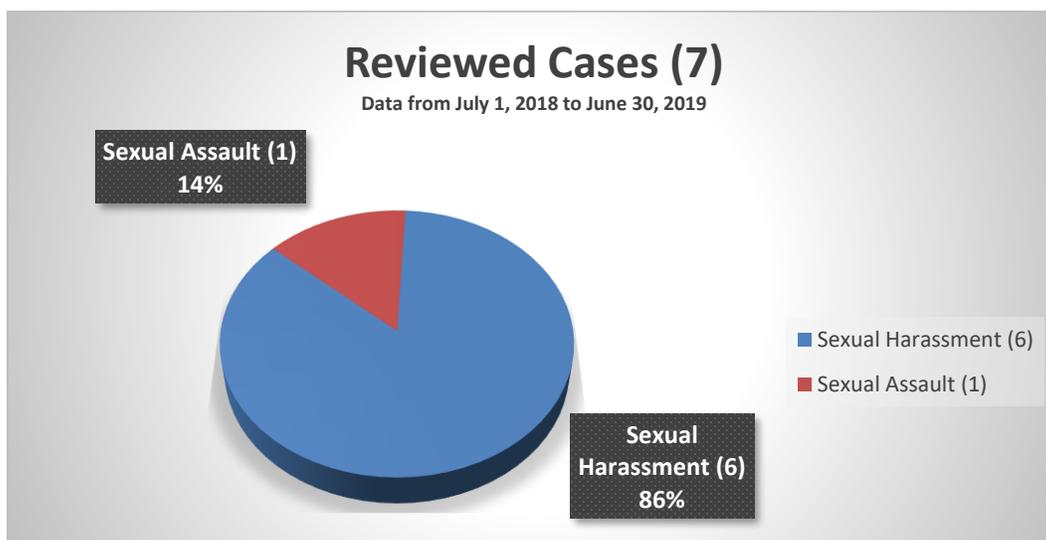
c. Review

Some Prohibited Conduct reports immediately proceed to investigation, but there are instances when an investigation may not be possible or investigation is not wanted (e.g., a

Complainant/Claimant requests confidentiality or asks that the University not pursue the matter). In those instances where the Complainant/Claimant declines to participate, requests confidentiality, and/or asks that the University not investigate the report, the matter is reviewed by the IES, Title IX Coordinator, a representative from OGC, and any other necessary staff.

Ultimately, the Title IX Coordinator determines appropriate next steps after the review has been made. As noted above, even in those instances in which the ultimate decision is not to proceed to investigation, the University may take other action, such as (but not limited to) providing interim measures/resources and communicating that an investigation may occur at a later date if more information becomes available or the Complainant/Claimant subsequently decides to participate in the investigation. Finally, even if no investigation ensues, alleged conduct that could be criminal in nature is reported to DPS.

During the reporting period, seven reports were closed after having been reviewed.



In six of the seven reviewed cases, the Complainant/Claimants did not want to pursue an investigation. In the final case, the IES learned that the Respondent was affiliated with the Ann Arbor campus; and therefore, the case was referred to the Office of Institutional Equity (“OIE”) for follow-up.

Please note that in six of the reported incidents, although the Complainant/Claimant did not want to pursue an investigation, based on the information that the University obtained, efforts were made to correct and resolve the matter through additional remedies, which at times can involve a conversation with the Respondent to discuss the alleged behavior. In addition, in each of these cases, the Complainant/Claimant’s were offered resources and the option to pursue the investigation at a later date.

d. Adaptable Resolution

Adaptable resolution is a voluntary, remedies-based, structured interaction between or among affected parties that balances support and accountability without formal disciplinary action against a Respondent. Adaptable resolution is generally designed to allow a Respondent to acknowledge harm and accept responsibility for repairing harm (to the extent possible) experienced by Claimant and/or the University community. All requests for adaptable resolution under the Policy must be approved by the Title IX Coordinator. During the reporting period, adaptable resolution was not an option available to faculty, staff, and third-party Respondents and is currently only offered in the Student Sexual Misconduct Policy.

Of the 26 matters reported, one requested or proceeded to adaptable resolution to resolve the complaint or in lieu of an investigation.

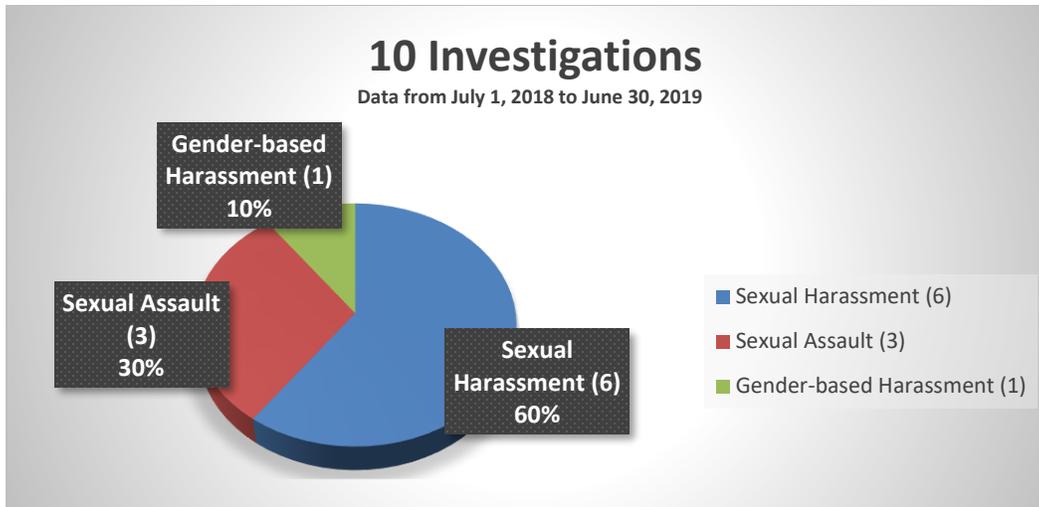
e. Investigations

As noted throughout this report, the University considers each case individually, and takes appropriate actions, including offering confidential support and resources and/or interim measures, and notifying DPS of possible criminal activity. However, whether an investigation can go forward depends on the available information and consideration of each individual Complainant/Claimant's wishes, balanced with the need to provide for the overall safety of the campus community. In most instances, an investigation occurs because behavior that falls under the Policy has been reported and there is sufficient information available to conduct an investigation. For this reporting period, there was sufficient information to conduct ten investigations.

Of the ten investigations that proceeded during the reporting period, three concerned allegations of sexual assault. Sexual assault encompasses a broad spectrum of behavior that includes any form of unwanted sexual touching. Specifically, the Policy defines sexual assault as:

Unwanted or unwelcome touching of a sexual nature, including hugging, kissing, fondling, oral sex, anal or vaginal intercourse, or other physical sexual activity that occurs without valid consent.

Again, a single investigation may involve allegations of more than one type of Prohibited Conduct. However, none of the cases during the reporting period involved more than one type of Prohibited Conduct.



IV. Finding/Notice of Hearing Outcome

As set forth in the Policy⁷, a finding is made based on the “preponderance of the evidence” standard. Under this standard, individuals are presumed not to have engaged in the alleged conduct unless a preponderance of the evidence supports a finding that the conduct occurred. This preponderance of the evidence standard requires that the evidence supporting each finding be more convincing than the evidence offered in opposition to it.

If there is insufficient evidence to conclude by preponderance of the evidence that the Policy was violated, that does not necessarily mean that the conduct did not occur. Rather, this outcome can have a variety of bases, such as that there is insufficient evidence to support a conclusion that the behavior occurred; that there is sufficient evidence to conclude that the behavior occurred, but it was not sufficiently severe, persistent, or pervasive to constitute sexual or gender-based misconduct; or that the conduct occurred but there may not be sufficient evidence to conclude that the Respondent knew or reasonably should have known that conduct of a sexual nature was unwelcome to the Complainant/Claimant.

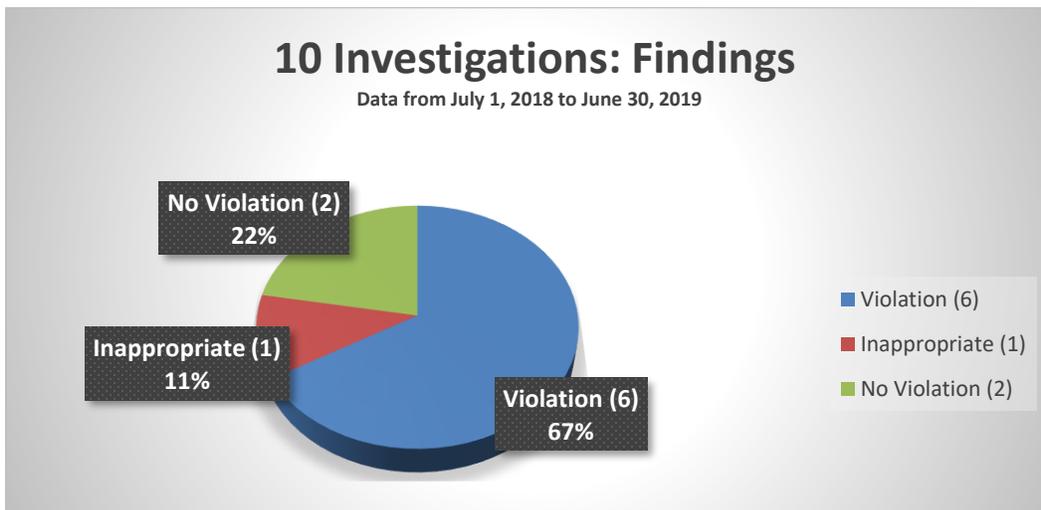
In cases where an employee or third-party is a Respondent, the IES is responsible for conducting the investigation and determining the finding. A conclusion as to whether or not the Policy has been violated, is issued in an investigation report that is forwarded to the Office of Human Resources (“HR”) and the relevant administrator. If applicable, HR, in conjunction with the appropriate managing unit, determines corrective action. As stated further on in this report, Respondent may grieve any corrective action that is disciplinary in nature through the grievance mechanism available to that faculty or staff member.

⁷ This includes the Student Sexual Misconduct policy, the Sexual Misconduct SPGS, and the Discrimination and Harassment Policy.

In cases where a student is a Respondent, the IES is responsible for conducting the investigation and issuing a final investigation report without a finding. The matter is then referred to hearing. The hearing is an opportunity for the parties to address a hearing officer in person and for the hearing officer to obtain information to answer any outstanding questions following the investigation that is necessary to make a determination of whether a Policy violation occurred. The preponderance of evidence standard is used in student cases as well. The hearing officer is not an employee of the University and is impartial, free from bias and conflict of interest. The finding, called a Notice of Hearing Outcome, is made by the hearing officer. If applicable, the Office of the Dean of Students manages the sanctioning and appeals processes.⁸

Of the ten investigations initiated by the IES since July 1, 2018, nine were completed at the time this report was issued. These nine cases represented nine possible violations. The findings/outcomes were as follows:

- Six policy violations
- One finding of inappropriate behavior
- Two instances of no policy violation
- No cases where the evidence supported a conclusion that the behavior did not occur.



V. Corrective Action/Sanctions

⁸ The IES is not involved in administering corrective actions or sanctions. This information has been provided for completeness.

When a Respondent is found to have violated the Policy, the University takes action designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects. Corrective action and sanctions are tailored to the specific circumstances of each case.

In the seven investigations that resulted in a finding of a violation or inappropriate behavior, the following corrective action/sanctions were taken or implemented:

- Five violations resulted in four instances where a Respondent's employment or employment contract was terminated⁹
- In two instances, both probation and educational measures were implemented for each case

VI. Appeals/Grievances

In cases decided under the Student Sexual Misconduct policy, both the Claimant and the Respondent have the opportunity to appeal the outcome of an investigation and, if there was a finding that the Policy was violated, both parties may also appeal the sanctions.

There were no appeals requested during the reporting period. The appeals process for this time frame can be found in the current Student Sexual Misconduct Policy, which is available at https://www.umflint.edu/sites/default/files/groups/Human_Resources/flintfinalssmp_01.07.2019_0.pdf. The former Student Sexual Misconduct Policy is available at https://www.umflint.edu/sites/default/files/groups/Human_Resources/student_sexual_misconduct_policy_fall_2014.pdf.

In cases decided under the Sexual Misconduct SPGs and the *Discrimination and Harassment* Policy, the finding may not be appealed, but the faculty or staff member may grieve any corrective action imposed using the appropriate grievance procedure.

There were no grievances filed during the reporting period.

VII. Education and Prevention Measures

The University continues to focus on educational measures intended to prevent sexual misconduct.

On campus, a triage process exists between individuals in Human Resources, Public Safety and Student Affairs to review and appropriately intake, investigate and adjudicate each sexual misconduct case.

⁹ One Respondent was represented in two separate investigations that resulted in violations in both cases.

Training efforts continue in order to educate the campus community about adjustments to the Policy, as well as reporting options and the various reporting responsibilities of University faculty and staff. This year, a working group of faculty and staff across all three campuses and Michigan Medicine created an online training module related to sexual and gender-based discrimination and harassment, Cultivating a Culture of Respect, which all University and Michigan Medicine faculty and staff are required to complete by December 31, 2019. In addition, the University continues to strongly encourage all faculty and staff members to complete the [Responsibilities at Michigan: Sexual Assault, Intimate Partner Violence, Stalking, and Sexual and Gender-Based Harassment](#) training. Faculty and staff members are also strongly encouraged to complete [Haven Training for Faculty and Staff](#), a robust online program addressing sexual assault, sexual harassment, stalking, and intimate partner violence.

The IES offers policy trainings for faculty and staff members on the departmental level, as well as individual trainings on a case-by-case basis.

Ongoing campus student training includes (but is not limited to):

- Rape Aggression Defense (RAD) Courses – Multiple 3-hour sessions available each month for students, free of charge.
- Annual stranger abduction training for students – In conjunction with Student Government and Block Club. Training provides overall safety tips including tips designed to prevent abduction and date rape.
- Sexual Assault Awareness and Prevention programs
- Bystander Intervention Training

In addition to these efforts, there are a variety of in-person educational sessions that are focused to specific groups, such as student athletes and athletics administrators, housing staff, summer camp counselors, etc. To obtain more information on the University's training efforts, students, faculty and staff can contact the following departments:

Center for Gender and Sexuality
213 University Center
303 E. Kearsley Street, Flint, MI 48502
(810) 237-6648
<https://www.umflint.edu/cgs>

Department of Public Safety (DPS)
103 Hubbard Building
602 Mill Street, Flint, MI 48503
(810) 762-3333
<https://www.umflint.edu/safety>

Dean of Students
361 University Center
303 E. Kearsley Street, Flint, MI 48502
(810) 762-3431
studentlife@umflint.edu
<https://www.umflint.edu/sil/student-involvement-and-leadership>

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Students are notified of training opportunities in advance through their student UM-Flint email, Facebook, and other relevant media sources.

VIII. Conclusion

We hope that this information is helpful to the University of Michigan-Flint community. For more information, including definitions, resources, and a more detailed overview of the processes available under the policies, or to report an incident of sexual misconduct, please visit: <https://www.umflint.edu/sexualmisconduct/>.

Finally, as noted above, we welcome any feedback on how we might make this document more helpful, easier to understand, or otherwise improve its contents. Please provide any feedback to the Institutional Equity Specialist (IES) or the Interim Title IX Coordinator

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