Relationship Violence & Sexual Misconduct Policy

University Council Presentation:
October 21, 2014

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Deputy General Counsel
Legal & Regulatory Framework

- White House Task Force Report
- U.S. Department of Education, Office for Civil Rights Guidance
- Violence Against Women Act Proposed Rules
Policy Development

- Office for Inclusion & Intercultural Initiatives
- Sexual Assault Program
- Sexual Assault & Relationship Violence Program
- MSU Safe Place
- MSU Police
- REHS
- HR / AHR
- Student Affairs
- Academic Governance
- ASMSU
- Graduate student
- General Counsel
Feedback Solicitation & Next Steps

- Campus forums
- On-line survey
- Submit to OCR
  - Academic Governance consultation
  - Review feedback
  - Revise draft as necessary
- Goal = completed draft by 12/31/14
Related Initiatives

- Detailed FAQ document (Appendix C)
- Process flow-chart documents
- Update related procedures and documents
- Education & training (students and employees)
- Annual reporting to campus community
Summary of Policy Changes

- Expanded coverage for domestic violence, dating violence, and stalking
  - Definitions taken from federal regulations
  - Policy covers physical aspects of conduct
  - Resources available even if no policy coverage
Summary of Policy Changes

- Updated definitions for sexual violence & consent
  - Sexual violence: A physical sexual act perpetrated against a person’s will or where a person is incapable of giving consent. (Includes rape, sexual assault, and sexual coercion.)
Summary of Policy Changes

- Consent:
  - The voluntary, willful, and unambiguous agreement to engage in a specific sexual activity during a sexual encounter.
Summary of Policy Changes

- Consent cannot be given by someone who is:
  - Sleeping
  - Unconscious, unaware, or otherwise mentally or physically helpless because of drugs, alcohol, or other contributing factor ("incapacitated")
  - Unable to understand the nature of the physical activity due to a mental disease or condition ("mentally incapable")
  - Under duress, threat, coercion, or force
Summary of Policy Changes

- Consent must be clearly communicated by mutually understandable words or actions.
- Consent cannot be inferred.
Summary of Policy Changes

- Examples of situations that do not imply consent:
  - Silence
  - Absence of a verbal “no” or “stop”
  - Absence of resistance
  - Existence of a prior or current relationship or sexual activity
Summary of Policy Changes

- Expanded confidential reporting options
  - Privileged Communications
  - Confidential Communications

- Clarification of reporting obligations of non-confidential employees
  - Mandatory Reporters
Summary of Policy Changes

- Privileged Communications: licensed counselors are available at:
  - MSU Counseling Center
  - MSU Sexual Assault Program
  - MSU Safe Place
  - MSU Psychological Clinic
  - MSU Couple and Family Therapy Clinic
  - MSU Olin Psychiatry
Summary of Policy Changes

- Confidential Communications
  - MSU Sexual Assault Program & 24-hour Sexual Assault Crisis Line
  - MSU Safe Place
  - MSU Sexual Assault & Relationship Violence (SARV) Prevention Program
  - University Ombudsperson
- Periodically share non-personally identifiable information with Title IX Coordinator
Summary of Policy Changes

- Mandatory Reporters:
  - Includes all University employees not in privileged or confidential category
  - Must report relationship violence or sexual misconduct perpetrated by member of U community or occurring at U event or on U property
  - Reporting obligations based on information received as employee, not in personal capacity
Summary of Policy Changes

- **Student Victim: SV or RV**
  - I3
  - MSU Police

- **Student Victim: SH**
  - I3
  - MSU Police (physical contact or threats of violence)
Summary of Policy Changes

- Employee Victim: SV or RV
  - I3
  - MSU Police

- Employee Victim: SH
  - I3
  - MSU Police (physical contact or threats of violence)

NOTE: Supervisors = mandatory; Colleagues = encouraged
Summary of Policy Changes

- Third Party Victim: SV or RV
  - I3
  - MSU Police

- Third Party Victim: SH
  - I3
  - MSU Police (physical contact or threats of violence)
Summary of Policy Changes

- Reports from Witnesses:
  - Students / Third Parties: strongly encouraged to report
  - Employees: follow employee reporting protocols
  - Student employees: follow employee reporting protocols (see FAQ document)
Summary of Policy Changes

- Clarification of process for assessing requests for confidentiality
  - Title IX Coordinator weighs request against obligation to provide safe, non-discriminatory environment
  - Factors include risk of additional acts by accused, use of weapon, age of victim, pattern of RV or SM at a specific location or by a particular group.
  - Granting request = ability to investigate incident & pursue discipline (if violation found) is limited
Summary of Policy Changes

- Amnesty provisions for alcohol/drug use and possession violations
  - Michigan law = alcohol only; not all conduct covered by RVSM Policy
  - RVSM policy provides broader amnesty against student conduct actions for violation of University policy.
Summary of Policy Changes

- Links to campus, community, and governmental resources and information
- Detailed information about state criminal laws
Other New Developments

- MSU Police: creation of SVU to handle complaints
- Expanded role for unit liaisons
- Expanded training for employees and students
Things that Have **Not** Changed

- Sexual harassment portions of policy
- First Amendment protections
- Investigation process
- Student conduct process
- Employee discipline process / CBAs
- Campus resources, including counseling, advocacy, and interim measures
Title IX Coordinator Information

- Paulette Granberry Russell, J.D.
  MSU Title IX Coordinator

- Title IX Coordinator
  - 101 Olds Hall
  - 517-353-3922
  - [www.inclusion.msu.edu](http://www.inclusion.msu.edu)
  - [www.inclusion.msu.edu/equity/SexualHarrasmentAssault.html](http://www.inclusion.msu.edu/equity/SexualHarrasmentAssault.html)
Providing Feedback

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- UCFA / UCSA members