Interim University Sex/Gender Discrimination, Harassment, and/or Sexual Misconduct Policy
Michigan Technological University

Policy Number XXXX
Title Sex Discrimination, Harassment and/or Sexual Misconduct Policy
Effective Date July 1, 2015
Senate Proposal No
Responsible Officer Executive Director, Institutional Equity and Inclusion
Responsible Office Institutional Equity and Inclusion

Purpose
The U.S. Department of Education’s Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Originally known as the Campus Security Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act is the landmark federal law that requires colleges and universities across the United States to disclose information about crime on and around their campuses. The law is tied to an institution’s participation in federal student financial aid programs and it applies to most institutions of higher education both public and private. The Clery Act is enforced by the United States Department of Education.

The Violence Against Women Act (VAWA) is federal legislation’s comprehensive approach to violence against women with programs to provide services for victims combined tough provisions to hold offenders accountable.

The University Board of Trustees, by Policy 5.3, affirmed the rights and obligations of all students and employees pursuant to the above and other civil rights laws.

Related Policy Information
Board of Trustees Policy 5.3
Annual Security and Fire Safety Report
Student Conduct Policies : Sexual and/or Relationship Misconduct Policy

Contacts
Institutional Equity and Inclusion 906-487-3310
Title IX Coordinator 906-487-3310
Public Safety and Police Services 906-487-2216

Policy Statement
Members of the Michigan Technological University community, including students, employees, and third parties have the right to be free from all forms of sex/gender based discrimination, harassment, and/or sexual misconduct.
Policy Requirements

Michigan Tech expressly prohibits sex/gender based discrimination, harassment, and/or sexual violence, termed as sexual misconduct by employees, students, and third parties, against students and/or employees, or third parties, such as a vendor or visitors to Michigan Tech.

Sex/gender based discrimination, harassment, and/or sexual misconduct includes pregnancy and parental status discrimination, sexual harassment, and sexual violence, hereafter referred to as sexual misconduct, such as non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, dating violence, domestic violence, sexual assault, stalking, and sexual coercion. Michigan Tech’s standards and definitions of sexual misconduct often overlap with or include the crimes of rape, sexual assault, sexual harassment, stalking, dating violence, and domestic violence. Victims of these behaviors are protected by federal laws, specifically Title IX of the U.S. Equal Opportunity in Education Act, the Violence Against Women Act, and the Jeanne Clery Act and by various state laws. See the Definitions section for complete definitions of these sexual misconduct terms.

When an allegation of sex/gender based discrimination, harassment and/or sexual misconduct is brought forward, the University will take prompt, thorough, and effective steps to investigate. If found to have occurred, the University will take steps to remedy the discrimination, harassment and/or sexual misconduct, prevent its recurrence, and address its effects, whether or not the discrimination, harassment and/or sexual misconduct is the subject of a criminal investigation. The University will take appropriate steps to protect the victim and/or complainant as necessary including interim steps prior to the final outcome of the investigation.

In order for individuals to engage in appropriate sexual conduct/activity of any type, there must be consent. Consent is words or actions that demonstrate a knowing or voluntary willingness to engage in mutually agreed upon sexual activity.

In the event that sex/gender based discrimination, harassment, and/or sexual misconduct do occur, Michigan Tech takes the matter very seriously and reserves the right to take whatever measures it deems necessary in response to an allegation in order to protect students’ and employees’ rights and personal safety. Michigan Tech employs interim protection actions such as interim suspensions and/or no contact orders in any case where a student’s or employees’ behavior presents a risk of ongoing violence, predation or other prohibited activity. The university interim actions and measures may also include, but are not limited to, modification of academic, living or work arrangements.

In the investigation, determining whether the alleged conduct constitutes sex/gender based discrimination, harassment or sexual misconduct, consideration shall be given to the record as a whole and to the totality of circumstances, including the nature and frequency of the conduct and the context in which the alleged incidents occurred to determine if it is sufficiently severe, pervasive, and objectively offensive that it unreasonably interferes with, denies or limits someone’s ability to participate in or benefit from the university’s educational program and/or activities.

If sex/gender based discrimination, harassment, and/or sexual misconduct is established, Michigan Tech will discipline the respondent. Disciplinary action for violations of this policy can range from verbal or written warnings, probation, up to and including suspension, expulsion, termination from employment or dismissal from Michigan Tech. Third parties, guests and other persons who violate the policy are subject to corrective action, which may include removal from campus and termination.
of contractual agreements. The University reserves the right to impose necessary and appropriate interim actions and the full range of sanctions in response to misconduct which threatens the safety and security of the University community.

Attempts to commit prohibited conduct may be punished to the same extent as completed violations. Repeated or aggravated acts of prohibited conduct may result in enhanced sanctions. Repeated or intentional failure to comply with imposed sanctions may result in enhanced sanctions. Violations of this policy that are motivated by the offender's bias due to race, religion or cultural identity, disability, ethnicity/national origin, and/or other legally protected status may result in enhanced sanctions.

If a student is accused of sex/gender based discrimination, harassment and/or sexual misconduct, they are subject to action in accordance with this policy, Board of Trustees Policy 5.3 and Student Conduct Policies of Sexual and/or Relationship Misconduct policy and procedures.

If an employee is accused of sex/gender based discrimination, harassment and/or sexual misconduct, they are subject to action in accordance with this policy and Board of Trustees Policy 5.3.

A student wishing to officially report such an incident may do so privately by contacting the Title IX Coordinator, the Office of Academic and Community Conduct, and/or Public Safety and Police Services.

An employee wishing to officially report such an incident may do so privately by contacting Title IX Coordinator and/or Public Safety and Police Services.

If one desires that details of the incident(s) be kept confidential assistance should be requested from those individuals who are not required to tell personally identifiable information. This includes mental health counselors, Counseling Services for students or the Employee Assistance Program for employees, the Ombuds, and/or providers of off-campus crisis resources such as Dial Help and/or Barbara Kettle Gundlach Shelter, all of whom can maintain confidentiality.

In an emergency, dial 911 for immediate assistance.

For Title IX compliance, all Michigan Tech employees who are designated as supervisors, including some other employees including student employees, are considered “responsible employees.” See the Definitions section of this policy for detailed information on the responsible employee.

Public Safety and Police Services are notified when sexual misconduct occurs, typically without providing identifying information about the incident, unless a complainant wishes that information to be shared, or an emergency requires disclosure. Certain campus officials called Campus Security Authorities have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes for the Clery Act. See the Definitions section of this policy for detailed information on the Campus Security Authorities/Clery Act.

Retaliation against anyone who files a claim/complainant, who is named as a respondent, or who participates in the investigation and/or resolution of a case, regardless of the outcome of the case, is expressly prohibited and could lead to discipline and possible dismissal.
Any individual who knowingly files a false complaint, or who knowingly provides false information to, intentionally misleads, or knowingly withholds available requested information from University officials who are investigating a complaint, may be subject to disciplinary and/or corrective action.

Under most circumstances, the investigation and final determination of a complaint will be completed within 60 days, from the date on which the University receives notice of an alleged incident.

In an effort to reduce the risk of sex/gender based discrimination, harassment, and/or sexual misconduct including domestic violence, dating violence, sexual assault, and stalking each year, it is the policy of Michigan Tech to utilize a range of campaigns, strategies, training, and initiatives to promote awareness, educational, risk reduction, and prevention programming. Bystander engagement is also used to encourage safe and positive intervention techniques and by empowering third-party intervention and prevention.

Definitions
Advisor is typically a faculty, staff, or student member of the University who is able to be present during all processes for support to either the complainant or respondent. The advisor may not participate directly in the process, but may offer advice, guidance, and/or support to the student/employee.

Bystander engagement is used to encourage through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies, and/or creating distractions. Bystander empowerment training highlights the need for those who intervene to ensure their own safety in the intervention techniques they choose, and motivates them to intervene as stakeholders in the safety of the community when others might choose to be bystanders.

Campus Security Authorities (Clery Act) are University employees designated under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 to report certain crimes including the sex offenses (forcible and non-forcible) of sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes for the Clery Act. All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location for publication in the annual Campus Security Report. Arrest records, however, are not confidential and are not protected by FERPA. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Complainants of sexual misconduct should also be aware that to comply with the Clery Act university administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The university will make every effort to ensure that a 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 danger.

Coercion (Sexual) is unreasonable pressure for sexual activity. When someone makes clear that they do not want sex, 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. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “no.”
Complainant means any member of the University community, law enforcement agencies, or member of the public who makes a complaint of sex/gender based discrimination, harassment and/or sexual misconduct to the University. In situations where the individual(s) reports information, but wishes not to be involved in the investigation, the University may choose to become the complainant. There are times when the victim and complainant are not the same individual as a complainant (a witness) can contact the university to make a complaint in behalf of another person (the victim) who has allegedly experienced sexual violence, discrimination or harassment.

Confidential resources are individuals that are not required to tell anyone a victim’s or complainant’s personally identifiable information unless there is a significant case for fear of the victim’s or complainant’s safety or the safety of others. To contact confidential resources see the Title IX webpage.

Consent is giving sexual permission. Consent must be freely and actively given, with mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon activity. Mutually understandable consent is a subjective standard. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to do the same thing, in the same way, at the same time, with each other. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence, without actions demonstrating permission, cannot be assumed to show consent. Consent which is obtained through the use of fraud or force whether that force be physical force, threats, intimidation, or coercion, is not consent. Consent may never be given by minors to legal adults, by mentally disabled persons, or by physically incapacitated persons. One who is physically incapacitated as a result of alcohol or other drug consumption (voluntary and involuntary), or who is unconscious, unaware, or otherwise physically helpless, is also incapable of giving consent. One may not engage in sexual activity with another who one knows or should reasonably have known is physically incapacitated. Incapacitation means being in a state where a person lacks the capacity to appreciate the fact that the situation is sexual or cannot appreciate (rationally and reasonably - who, what, when, where, why, or how) the nature and/or extent of that situation.

Dating violence is a pattern of assaultive and controlling behaviors that one person uses against another in order to gain or maintain power and control in the relationship. The abusive and controlling behavior(s) intentionally cause fear, degradation and humiliation. Dating violence is committed by a person; (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship (ii) The type of relationship (iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence is violence that includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Michigan, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of Michigan.

Force is the use of physical violence threats, intimidation (implied threats) and coercion that overcome resistance or produce consent and/or imposing on someone physically to gain sexual access. There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration
of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

_Hostile Environment_ occurs when unwelcome conduct of a sexual nature creates an intimidating, threatening or abusive working or learning environment and is sufficiently severe, pervasive and objectively offensive as to substantially or effectively disrupt or undermine a person’s ability to participate in or benefit from a University program or activity. While a person engaging in harassing behavior most often has some form of power or authority over the person being harassed, that is not always the case. The harasser can be a peer of the person being harassed. Sometimes the harasser is harassing a person who has power over them. For example, a supervisee can sexually harass a supervisor, or a student can sexually harass a faculty member. To determine whether a hostile environment exists, the University examines the context, nature, scope, frequency, duration, and location of incidents, as well as the identity, number, and relationships of persons involved, when judged objectively (meaning that a “reasonable person”) would find the environment hostile. In some cases, a single incident may be so severe as to create a hostile environment. Such incidents may include injury to persons or property, or conduct threatening injury to persons or property. Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working conditions) or negative educational action (such as giving an unfair grade, withhold a letter of recommendation, or withholding assistance with any educational activity) or intentionally making the individual's job or academic work more difficult because sexual conduct is rejected would be examples of hostile environment. Other examples include the use or display in the classroom or workplace, including electronic, of pornographic or sexually harassing materials such as posters, photos, cartoons or graffiti without pedagogical justification.

_Interim Action_ is an immediate action taken by the University to ensure safety and well-being and/or address threats of disruption or interference with normal University operations.

_Interim Measure_ is an accommodation providing assistance with changes to academic schedules; on-campus housing/work arrangements; visa/immigration documents; financial aid assistance, employment assignments/schedules; on-campus escorts; etc.

_Investigator_ is an individual who investigates complaints.

_Non-Consensual Sexual Contact_ is any intentional sexual touching, however slight, with any object, by any person upon a man or a woman that is without consent and/or by force. Sexual Contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

_Non-Consensual Sexual Intercourse_ is any sexual intercourse however slight, with any object, by any person upon a man or a woman that is without consent and/or by force. Intercourse includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
Preponderance of Evidence means a party has shown that its version of facts, causes, damages, or fault is more likely than not the correct version. The concept of “preponderance of the evidence” can be visualized as a scale representing the burden of proof, with the totality of evidence presented by each side resting on the respective trays on either side of the scale. If the scale tips ever so slightly to one side or the other, the weightier side will prevail. If the scale does not tip toward the side of the party bearing the burden of proof, that party cannot prevail.

Programming is offered by Michigan Tech to identify and prevent sex/gender based discrimination, harassment, and sexual misconduct including domestic violence, dating violence, sexual assault, and stalking each year. Educational programs are offered to raise awareness for all incoming students and employees, and are conducted as a part of new student and new employee orientation. Programs and other campaigns offered throughout the year to all students and employees include strong messages regarding not just awareness, but also primary prevention (including the meaning of consent and bystander intervention), and discuss institutional policies on sexual misconduct as well as the Michigan definitions of domestic violence, dating violence, sexual assault, stalking, and consent in reference to sexual activity. Programs also offer information on risk reduction that strives to empower victims, how to recognize warning signals and how to avoid potential attacks, and do so without victim-blaming approaches. Programs are informed by evidence-based research and/or are assessed for their effectiveness.

Quid pro quo (meaning “this for that”) is offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education-related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any educational program or activity) in exchange for sexual favors or submission to sexual conduct.

Rape when a person forcibly subjects another person to sexual intercourse without consent. Also see Non-Consensual Sexual Intercourse in the Definition section.

Respondent is the person(s) or student organization(s) alleged to have violated the policy.

Responsible Employees include any employee who has the authority to take action to redress sexual and/or relationship misconduct; who has been given the duty of reporting incidents to the Title IX Coordinator; or whom a student could reasonably believe has this authority or duty. A responsible employee is required to report allegations of sex/gender based discrimination, harassment, and/or sexual misconduct to the Title IX Coordinator to maximize the institution’s ability to investigate and potentially address and eliminate the misconduct. For Title IX compliance, all Michigan Tech employees who are designated as supervisors, with the exception of mental health counselors, are considered “responsible employees.” This includes some select undergraduate student employees such as resident assistants (RAs) and orientation team leaders (OTLs). Also considered responsible employees are Public Safety and Policies Services officers and employees, student affairs staff, human resources staff, athletics and recreation staff, academic advisors, faculty, instructors, graduate teaching assistants, graduate assistants that are supervising other students, and individuals designated as Campus Security Authorities. The responsible employee should NOT try to determine if a violation actually did occur, or if a hostile environment is being created. The information that should be reported includes all the relevant information that the individual has shared and that may be useful in the investigation. This includes names of the alleged respondent, the student/employee who experienced the alleged violation, any other student/employee involved, and the date, time, and location of the alleged
incident. Responsible employees should inform student/employee that they are not confidential resources before they reveal something that they may want to keep confidential.

*Retaliatory harassment* is any adverse employment or educational action taken against a person because of the person’s participation in a complaint or investigation of discrimination, harassment and/or sexual misconduct. Retaliation against anyone who is a victim, files a claim/complainant, who is named as a respondent, or who participates in the investigation and/or resolution of a case, regardless of the outcome of the case, is expressly prohibited and could lead to discipline and possible dismissal. Retaliation exists when action is taken against a participant (whether a complainant, witness, respondent, or investigator) which affects their employment, academic/student, or business status which is motivated in whole or in part by their participation in the process. Retaliation for filing a complaint or participating in the complaint process may be found regardless of whether or not the underlying complaint is found to have merit. Persons who feel that they have been subject to retaliation because of filing or participating in the complaint procedure may file a complaint based on the alleged retaliation.

**Rights.** See the procedures section for detailed rights and support guidelines.

*Sexual Exploitation* is taking nonconsensual, unjust or abusive advantage of another in a sexual or intimate context, including without limitation: prostituting another person, engaging in, permitting or facilitating nonconsensual viewing, photographing, videotaping, audio taping, or posting to the internet sexual or intimate activity (such as dressing, showering and similar activity of oneself or others), knowingly infecting another person with HIV or other sexually transmitted diseases and/or inducing incapacitation of another person with the intent to facilitate nonconsensual sexual intercourse or contact with that person.

*Sexual Harassment* is unwelcome sexual advances, requests for sexual favors, and/or verbal or physical conduct that is sufficiently severe, pervasive, and objectively offensive as to substantially or effectively disrupt or undermine a person’s ability to participate in or benefit from a University program or activity. It could be based on power differentials (quid pro quo) where submission to such conduct is made either explicitly or implicitly a term or condition of instruction, employment or participation in any University activity, or creates a hostile environment. Some examples include displays of sexually suggestive materials or content, repeated sexual jokes or innuendos, sexual touching, unwelcome flirting/advances or repeated requests for dates in any form (email/social media), pressuring one for sex, requiring sexual favors in exchange for a grade or favor or some other benefit.

*Stalking* is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) Fear for his or her safety or the safety of others; or (B) Suffer substantial emotional distress

*Sexual Assault* is an assault of a sexual nature on another person. It includes any sexual offense that meets the definition of rape, fondling, incest, or statutory rape.

*Victim* is the person who allegedly experienced sex/gender based discrimination, harassment and/or sexual misconduct regardless of whether the victim chooses to report the conduct to the University or authorities.
Responsibilities
Title IX Coordinator – Monitoring and oversight of overall implementation of Title IX and VAWA compliance at the University.

Public Safety and Police Services – Monitoring and oversight of overall implementation of the Clery Act and VAWA compliance at the University.

Procedures

When Michigan Tech receives a report of sex/gender based discrimination, harassment and/or sexual misconduct, the campus Title IX Coordinator is notified. The University will respond to violations of this policy through a variety of pathways, informally and/or formally, with the goal of educating all parties involved.

If the victim or complainant wishes to access local community agencies and/or law enforcement for support, Michigan Tech will assist the complainant in making these contacts. The Title IX Coordinator, or designee, will offer assistance to the complainant in the form of interim measures such as opportunities including but not limited to academic accommodations; changes in housing for the victim, complainant or the respondent; visa and immigration assistance; no contact orders, changes in working situations; and other assistance as may be appropriate and available on campus or in the community. If the victim or complainant so desires, they can be connected with a counselor, as well as a victim’s advocate. No victim or complainant is required to take advantage of these services and resources, but Michigan Tech provides them in the hopes of offering help and support without condition or qualification. The Title IX Coordinator will determine the most effective method of reviewing the concerns raised by the Complainant. In some cases, this will involve a thorough fact-finding investigation. In other cases, a different or less formal response to the complaint may be warranted. Although the Title IX Coordinator may modify these guidelines, the University will still respond to the complaint in a prompt, thorough and effective manner that is procedurally fair. At any stage of the process, based on review of available information, the Title IX Coordinator may terminate any further investigation of a complaint.

When appropriate upon receipt of notice, the Title IX Coordinator will initiate a prompt, fair, and impartial process, commencing with an investigation, which may lead to the imposition of sanctions based upon a preponderance of evidence. See the Institutional Equity and Inclusion webpage for information on complaint processes for employees and third parties. See the Student Conduct Policies for the policy and procedures for Sexual and/or Relationship Misconduct.

The investigation and records of the case remain confidential within the University and are shared privately only between administrators who need to know. Where information must be shared to permit the investigation to move forward, the victim and/or complainant will be informed. Privacy of the records specific to the investigation is also maintained in accordance with Michigan law and for students the federal FERPA statute. Any public release of information needed to comply with the open crime logs or timely warning provisions of the Clery Act will not include the names of the victim or complainant or information that could easily lead to a victim or complainant’s identification. Additionally, Michigan Tech maintains confidentiality in relation to any accommodations or protective measures afforded to a complainant, except to the extent necessary to provide the accommodations and/or protective measures.
Once the investigation is complete and also upon the completion of any hearing or deliberative process the complainant and respondent will be informed, in writing and without undue delay, of the outcome. The complainant and respondent will be informed of their rights to request an appeal and, if an appeal is filed, of its filing. The complainant and respondent will be timely informed in writing of the results of any appeal whether or not it modifies the original outcome.

Title IX, VAWA, and the Clery Act provide protections for whistleblowers who bring allegations of non-compliance with the Clery Act and/or Title IX to the attention of appropriate campus administrators.

Michigan Tech does not retaliate against those who raise concerns of non-compliance. Any concerns should be brought to the immediate attention of the campus Title IX Coordinator and/or to officials of the U.S. Department of Education.

Victim, Complainant and Respondent rights and support guidelines include:

- The Victim and/or Complainant and Respondent will be treated with respect by University officials throughout the entire process.

- The Victim and/or Complainant and Respondent will be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by University officials in notifying such authorities, if the student/employee so chooses. This also includes the right not to report, if the complainant chooses.

- The Victim, the Complainant or the Respondent may request a campus "No Contact" condition against each other or against any other student/employee who has engaged in or threatens to engage in any threatening, harassing or other improper behavior.

- The Victim, Complainant or Respondent may request a change in academic/work/living situations. If such changes are requested, reasonable and are reasonably available, the University will support the request. Neither a criminal conviction nor an investigation need be completed before a student/employee requests that this interim measure be put in place.

- The Victim and Respondent will be provided with information regarding available mental health and student services, both on campus and in the community.

- It is the goal of the University to ensure that Victims, Complainants, and Respondents have access to needed resources, services, and information. Victims and Respondents will be given timely notice of the alleged violation(s) and investigation, and fully informed of the nature, rules, procedures, including possible sanctions.

- Neither the Victim and/or Complainant nor Respondent will have the option to mediate a complaint of sexual violence, and in all cases involving a complaint of sexual harassment against a person in a position of authority over the Victim or Complainant.
• The Complainant and the Respondent will each be able to review documentary information available regarding the complaint, and be informed of all witnesses participating in the investigation unless a witness has been granted anonymity for compelling safety reasons.

• The Complainant and Respondent may each request that any person investigating be removed on the basis of demonstrated bias.

• The Victim and/or Complainant and the Respondent may each participate in the investigation and hearing process and each may have an advisor of their choosing to accompany and assist them. The advisor may give guidance and/or provide support to the participant, but may not take part directly in the investigation and/or processes. The University will provide assistance to and consider the concerns and rights of both the victim and the respondent throughout the process.

• Irrelevant prior sexual history will not be considered in any investigation or other procedures.

• The Victim and/or Complainant and Respondent may each make an impact statement during any point in the process and have the statement considered in determining potential outcomes.

• The Complainant and Respondent will each be informed simultaneously and in writing of the outcome and appeal processes.

Additional Rights/Support Guidelines for the Victim and Complainant:

• University officials will not discourage the Victim or Complainant from reporting sex/gender based discrimination, harassment, and/or sexual misconduct offenses. The victim may cooperate in a University investigation, seek criminal charges with campus or local law enforcement, seek civil action with a civil trial, choose multiple options, or choose not to take any action.

Additional Rights/Support Guidelines for the Respondent:

• The respondent will be given a clear statement of the allegations against them and the opportunity to respond to those allegation by accepting or denying responsibility, or standing mute.

• The respondent will receive a fundamentally fair process and they may refuse to answer some or all questions during an investigation or hearing to avoid self-implication. This silence may not be used against the respondent.

Students can also review the Rights/Support Guidelines in the Student Code of Conduct Sexual and/or Relationship Misconduct procedures.

Risk reduction for sexual violence
Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual misconduct are responsible for
those actions, these suggestions may nevertheless help one to reduce their risk experiencing sexual violence.

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help one to reduce their risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON’T MAKE ASSUMPTIONS about consent; about someone’s sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don’t take advantage of someone’s drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don’t abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

In addition, here are some things one can do to help reduce risk of being harmed in social situations.

- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately.
- Don’t leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you’ve left your drink alone, just get a new one.
- Don’t accept drinks from people you don’t know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don’t drink from the punch bowls or other large, common open containers.
Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they’ve had, or is acting out of character, get him or her to a safe place immediately.

If you are a victim of sexual violence
If you are a victim of sexual violence, some or all of these protection measures may guide you after an incident has occurred.

- Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, call 911.
- Consider securing immediate professional support (e.g., counseling, victim advocacy) to assist you in the crisis. If you are on campus during regular business hours, students may go to Counseling Services (906-487-2538) located on the 3rd floor of the Administration Building. After regular business hours or on weekends, a Michigan Tech Counselor is available by calling 906-487-2216. Employees may seek assistance from the Employee Assistance Program from Northstar at 906-225-3145 or www.northstareap.com. If you are off campus, you may go to Dial Help (906-482-4357 or text 906-356-3337) located at 609 Shelden Ave in Houghton. Dial Help is available 24/7. These are all confidential resources.
- For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible, ideally within 120 hours, is important in the case of rape or sexual assault. Local health care provided by LifePoint Health (UP Health System - Portage), located in Hancock, MI at 500 Campus Drive (906-483-1000).
- Even after the immediate crisis has passed, and if you have not done so, consider seeking support from a mental health counselor or victim advocate.
- Contact the Title IX Coordinator, the Office of Academic and Community Conduct, or Public Safety and Police Services or local police, to report the incident and/or to seek assistance with concerns, such as no-contact orders or other protective measures. They will also assist in any needed advocacy for those who wish to obtain protective or restraining orders from local authorities.
- Michigan Tech is able to offer reasonable academic supports, changes to living/work arrangements, transportation resources, offer information about legal assistance, visa/immigration assistance, student financial aid, SafeWalk, counseling services access, and other supports and resources as needed by a complainant.

If you are a victim of sexual violence, it is important to preserve evidence. For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible, ideally within 120 hours, is important in the case of rape or sexual assault.

- To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.
- Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. The will gather bedding, linens or unlaundered clothing, and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean sheet to avoid contamination.
- If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
• Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation.

• Try to memorize details (e.g., physical description names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have the time and ability to do so.

• If you obtain external orders of protection (e.g., restraining orders, injunctions, protection from abuse), please notify the local police department if off-campus or if on-campus, notify Public Safety and Police Services and/or the Title IX Coordinator so that those orders called a no contact order can be observed on campus.

A summary of rights, options, supports, and procedures, in the form of this document, is provided to all complainants, whether they are students, employees, or third parties.

Forms

Appendices

History