



Harassment, Discrimination,  
Sexual Misconduct and  
Disability Job Accommodations  
Annual Case Report

September 2016 through August 2017

Institutional Equity

[wmich.edu/equity](http://wmich.edu/equity)



Western Michigan University strives to cultivate a healthy, diverse and inclusive campus that recognizes the value of each individual and to foster a climate of safety, civility and respect for all students, employees, and other members of the University community. The University Non-Discrimination Policy ([wmich.edu/policies/non-discrimination](http://wmich.edu/policies/non-discrimination)) prohibits discrimination or harassment on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, protected veteran status, height, weight, or marital status, including retaliation for reporting or participating in an investigation and/or resolution of prohibited behavior. University departments and related policies and procedures affirm these principles, provide available resources for individuals whose rights may have been violated, and ensure accountability for conduct that violates existing policies.

### **Institutional Equity**

Institutional Equity (IE) is the office responsible for promoting equal opportunity, equity and access in employment and education in the University and providing compliance oversight for University policies related to federal and state civil rights laws and regulations prohibiting protected class discrimination, harassment and retaliation for members of the University community. The purpose of this report is to provide information about incidents of protected class claims of harassment, discrimination and retaliation; the outcomes from the University response and investigation process; and data regarding disability accommodations for employees.

The reporting period is the academic year consisting of fall and spring semesters and summer I and summer II sessions; approximately September through August. This case report covers four main areas:

- I. Prohibited Harassment, Discrimination and Retaliation Cases
- II. Sexual Misconduct Cases
- III. Administrative Enforcement Agency Charges
- IV. Disability Job Accommodation Requests and Services

#### **I. Prohibited Harassment, Discrimination and Retaliation Cases**

During the reporting period, IE received and responded to complaints based on sex and gender identity, race and disability status. There were no reports or cases of prohibited harassment or discrimination on the basis of color, religion, national origin, marital status, age, protected veteran status, height or weight.

As indicated in Table 1, the majority of the cases (n=115) involved some type of sexual misconduct followed by reported incidents/claims of race (n=11) and disability (n=8) based discrimination or harassment. IE was able to resolve and close the race and disability cases internally through investigations or consultations. Table 2 provides more detail about the nature and outcome of the sexual misconduct cases.



Table 1. Prohibited Harassment, Discrimination and Retaliation Cases

| Basis of Discrimination or Harassment   | Reported Incidents/Claims | Outcome   |
|---|---------------------------|---|
| Race  | 11                        | 5 Informal resolutions<br>4 Consultations<br>1 Responsible for a policy violation<br>1 Not responsible for a policy violation |
| Disability  | 8                         | 4 Consultations<br>3 Informal resolutions<br>1 Not responsible for a policy violation   |
| Sex, Sexual orientation, Gender identity <sup>1</sup>   | 115                       | See table 2, page 3 for detail  |
| Age, Color, Height, Marital status, National origin, Protected veteran status, Religion, and Weight | 0                         | N/A   |

<sup>1</sup>All sex and gender based discrimination cases, including sexual misconduct data.

## II. Sexual Misconduct Cases

The *Western Michigan University Sexual and Gender-Based Harassment and Violence, Intimate Partner Violence, and Stalking Policy and Procedures* covers sexual misconduct, including sexual and gender-based harassment, sexual assault, non-consensual sexual contact, sexual exploitation, harm to others, stalking, intimate partner violence and retaliation. Full definitions of these prohibited behaviors are available for review in the policy at [wmich.edu/sexualmisconduct](http://wmich.edu/sexualmisconduct).

As stated above, the majority of IE cases and investigations involve allegations of prohibited sex or gender-based harassment and discrimination. Table 2 includes the types and number of incidents of sexual misconduct reported to IE and the outcomes of each case during the reporting year.



Table 2. Sexual Misconduct Cases

| Sexual Misconduct <sup>1</sup>         | Incidents | Outcome  |
|--|-----------|--|
| Harm to Others                         | 0         |  |
| Intimate Partner Violence-Relationship | 5         | 3 Closed After Assessment - Complainant Declined Participation<br>1 Informal Resolution<br>1 Closed After Assessment - Respondent not Affiliated with WMU  |
| Intimate Partner Violence-Dating       | 14        | 5 Closed After Assessment - Complainant Declined Participation<br>5 Closed After Assessment - Respondent not Affiliated with WMU<br>3 Responsible for Policy Violation (Sanctions: 3 probation and additional sanctions <sup>2</sup> )<br>1 Closed After Assessment - Unknown Respondent   |
| Intimate Partner Violence-Domestic     | 1         | 1 Closed After Assessment - Respondent not Affiliated with WMU   |
| Non-consensual Sexual Contact          | 8         | 3 Closed After Assessment - Complainant Declined Participation<br>1 Responsible for Policy Violation (Sanction: probation and additional sanctions <sup>2</sup> )<br>1 Informal Resolution<br>1 Closed After Assessment - Anonymous Report<br>1 Closed After Assessment - Respondent not Affiliated with WMU<br>1 Closed After Assessment - Unknown Respondent   |
| Sexual Assault                         | 22        | 6 Not Responsible for Policy Violation<br>5 Responsible for Policy Violation (Sanctions for 6 respondents in 5 cases: 3 expulsions, 2 suspension with probation, 1 probation. All received additional sanctions <sup>2</sup> .)<br>4 Closed After Assessment - Complainant Declined Participation<br>4 Closed After Assessment - Unknown Respondent<br>3 Closed After Assessment - Respondent not Affiliated with WMU  |
| Sexual Exploitation                    | 2         | 1 Informal Resolution<br>1 Closed After Assessment - Complainant Declined Participation  |
| Sexual Harassment                      | 16        | 10 Informal Resolutions<br>5 Closed After Assessment - Complainant Declined Participation<br>1 Responsible for Policy Violation (Sanction: suspension, probation and additional sanctions <sup>2</sup> )   |
| Stalking of a Sexual Nature            | 3         | 2 Informal Resolutions<br>1 Closed After Assessment - Unknown Respondent   |
| Sexual Misconduct Consultation         | 44        | Inappropriate behavior reported as a form of sexual misconduct that, upon review, is one or more of the following:<br>1) low level concerns that can be addressed through discussions with IE staff<br>2) low level concerns that can be addressed through intervention of individuals in the environment (i.e. supervisor, faculty, residence hall staff)<br>3) other forms of harassment or bullying that are not covered under the sexual misconduct policy |

**Total Incidents: 115**

<sup>1</sup> Cases were reported September 2016 through August 2017, but the incident may have occurred in a previous year.

<sup>2</sup> Additional sanctions may include one or more of the following; housing ban, building ban, counseling, training, policy review, reflection paper, coaching/mentoring or other activities deemed appropriate by the sanctioning officer.



During the assessment process, IE provided resources for support, educational/prevention information and facilitated requests for interim measures such as; no contact orders and changes to academic classes, extra-curricular activities, living, dining or working arrangements, as appropriate. Additional sanctions may include housing ban, building ban, counseling referral, online training, policy review, reflection paper, counselor assessment and mandatory coaching/mentoring.

In the 2016-17 academic year, IE began categorizing sexual misconduct allegations after staff assessed the reported behavior, instead of how the reporting party labeled the behavior. If the assessment concluded the behavior had no sex/gender basis, nor discriminatory effect, the incidents were referred to the appropriate office for review and response. This resulted in more cases being added to the “consultation” category and less cases reported under sexual harassment. The majority of the consultations were regarding behavior reported or described as inappropriate, intimidation/bullying or harassment, but did not meet the definition of sexual harassment as defined in the policy. This pattern of cases indicates that administrators, faculty, staff and students need University-provided training and development on supervision, conflict resolution, bullying prevention and appropriate workplace/classroom conduct.

### III. External Agency Complaints

During the reporting year, a total of seven charges of discrimination were filed against the University through a government administrative enforcement agency. Four claims were filed by students and the other three were filed by employees of the University. As shown in Table 3, the charge was dismissed for two cases and the remaining cases are pending resolution.

*Table 3. External Agency Complaints*

| Agency   | Charge                                      | Charging Party | Outcome                        |
|--|---|----------------|--------------------------------|
| Department of Education - Office of Civil Rights (DOE-OCR) | Discrimination – Race                       | Student        | Charge Dismissed - Case Closed |
| Equal Employment Opportunity Commission (EEOC)             | Discrimination – Disability and Age         | Employee       | Pending Resolution             |
| EEOC   | Discrimination – Gender                     | Employee       | Pending Resolution             |
| EEOC   | Discrimination – Race                       | Employee       | Pending Resolution             |
| DOE-OCR  | Discrimination – Disability                 | Student        | Pending Resolution             |
| Michigan Department of Civil Rights (MDCR)                 | Discrimination – Disability                 | Student        | Charge Dismissed – Case Closed |
| MDCR   | Discrimination – Disability and Retaliation | Student        | Pending Resolution             |



#### **IV. Disability Job Accommodations**

IE assists employees with receiving reasonable accommodations for individuals with disabilities under the American with Disabilities Act and section 504 of the Rehabilitation Act. The disclosure of disability status by employees is strictly voluntary. Currently, there are 54 employees receiving disability accommodations. During the reporting period, IE received 22 new requests for accommodations, representing nearly a 70% increase in some form of accommodation. There has been a growing increase in requests for accommodations since the 2014 change in disability legislation, guidelines and requirements. The constant changes and increased use and need of accessible technology (e.g., closed captioning, American Sign Language); and tenure employees are working longer in the workplace, may also account for higher rates of accommodation requests and approvals.

The ADA Coordinator in IE serves as the chair of the ADA Review Committee and IE is instrumental in the process of coordinating and facilitating improvements to campus accessibility when issues are reported or identified through this office. During the reporting period, IE was involved in the planning and implementation process for required facility and structural changes, including the development of the new Web Accessibility Policy ([wmich.edu/policies/web-accessibility](http://wmich.edu/policies/web-accessibility)).

#### **Summary**

During the reporting period of September 2016 through August 2017, the majority of the protected group harassment and discrimination cases involved allegations or reports of sexual misconduct. Of the 115 cases, 44 reports were addressed without the need for an investigation through consultation or referral to another appropriate resource. Complaints related to race and disability were reported as the second and third highest reported incidents, respectively. IE was successful in resolving and closing most cases internally. All charges filed externally against the University with an administrative enforcement agency were dismissed and closed or remain open due to pending resolutions.

The University is experiencing increases in employee registration and requests for disability accommodations and accessible services. Changes in disability legislation, guidelines and reporting requirements and systems for federal contractors; and advances in technology and longer tenure employees in the workforce have created accessibility challenges for colleges and universities to address.

IE will continue to: conduct timely reviews and investigations of complaints and resolve cases at the lowest level possible; coordinate outreach and education for the campus community about the University Non-Discrimination and Sexual Misconduct policies and related processes and procedures; build partnerships to expand our ability to implement initiatives to reduce and prevent experiences and incidents of protected group harassment and discrimination; and cultivate a safe, respectful and welcoming campus where the employment and learning environment and opportunities are accessible, fair and equitable for all members of the WMU community.