Equity and Civil Rights
At
Montana State University

Office of Institutional Equity
Updated May 2021

**Please open the chat function and introduce yourself.**

(Name, hometown, department, years at MSU)
VOICE Center

call. text.
406.994.7069
Confidential
Info, Support, Options
24 hours a day
MSU SUB 370
Supporting all people impacted by sexual assault, relationship violence, and stalking.

HELP Center- 406-586-3333
What We’ll Cover Today

- OIE
- Protected Classes
- Policy & Definitions
- Policy Coverage
- Duty to Report
- Reporting Exemptions
- Roles of a Reporter

- Importance of Reporting
- Making a Report
- Supportive Measures
- Formal Investigation
- Burden of Proof
- Resources
Office of Institutional Equity

• Responsible for implementation and enforcement of MSU’s Discrimination, Harassment, and Retaliation Policy.

• Federal and State laws and MSU Policy protect employees, students, and guests from discrimination or harassment on the basis of protected categories.
MSU Protected Classes

- Race
- Color
- Religion
- National Origin
- Creed*
- Service in the Uniformed Services
- Veteran’s Status*
- Sex
- Age*

- Political Ideas*
- Marital or Family Status*
- Pregnancy
- Physical or Mental Disability
- Genetic Information
- Gender Identity*
- Gender Expression*
- Sexual Orientation*

* These classes are either unique to Montana or Montana/MSU has provided coverage beyond federal requirements
Title IX of the Education Amendments of 1972 is the law that mandates no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the university on the basis of sex. (gender identity, gender expression, sexual orientation)
Discriminatory Harassment at MSU

CONDUCT that is:

1) based on a person’s membership in a protected class and

2) that has the purpose or effect of unreasonably interfering with a reasonable person’s participation in a University Program or Activity (excludes, denies, treats differently, adversely affects).

Discriminatory Harassment Considerations:

- The identity of the parties, the nature of the parties’ relationship, and the influence of that relationship on the complainant(s)’ employment or education;
- The nature, scope, frequency, and duration of the protected class conduct;
- The degree to which the protected class conduct affected one or more students’ education or individual’s employment; and
- The nature of higher education.
Sexual Harassment at MSU

CONDUCT that

1. occurs within a University Program or Activity located in the United States,
2. affects an individual participating or attempting to participate in a University Program or Activity at the time the Formal Complaint is filed
3. is based on sex, gender identity, gender expression, or sexual orientation; and
4. satisfies the elements of Quid Pro Quo Conduct (something for something), Hostile Environment (severe, pervasive, & objectively offensive), Sexual Assault, Domestic Violence, Dating Violence, Stalking, or Sexual Exploitation

Note: Harassment does not have to be based on intent to harm, be directed at a specific target, or involve repeated incidents.
Retaliation

Retaliation means any adverse action, including efforts to intimidate, threaten, coerce or discriminate, and any adverse employment or educational actions,

• that would discourage a reasonable person from engaging in activity protected under this Policy,

• against any individual for the purpose of interfering with any right or privilege secured by this Policy, or

• because the individual has made a report or complaint, responded to a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and accompanying Discrimination Grievance Procedures.
Consent

State of MT: “words or overt actions indicating a freely given agreement”

MSU: “informed, freely given, and mutual.” Indicating a willingness to participate in mutually agreed upon sexual activity.

Consent is not present if:
- Force is expressed or implied
- Duress, deception, coercion, or intimidation is used or implied
- The person is incapacitated
- The person is younger than the age of consent

Other Considerations:
Silence does not automatically indicate consent.

Past consent to sexual activity does not imply ongoing or future consent.

Whether an individual has taken advantage of a position of influence or authority over an alleged victim. (Relationships with Students Policy)
Pregnant and Parenting Students

• Pregnancy is a temporary state based on the student’s sex
  – Therefore, covered under Title IX
  – Includes pregnancy, childbirth, false pregnancy, termination of pregnancy, related conditions, and recovery

• We have to provide reasonable supportive and protective measures to pregnant students

• The Office of Institutional Equity works with Disability Services and HR to coordinate pregnancy supportive and protective measures

• The Office of Institutional Equity can also manage documentation of MSU’s work with the student
**MSU TIX Policy Coverage**

**For Supportive and Protective Measures:**
- **Anyone Affected**

**For Adjudication:**
- **Who:** Faculty, Staff, Students, Guests
- **What:** Discrimination, Harassment, Retaliation on the basis of Sex
- **When:** Anytime, but the Complainant must be participating or attempting to participate in University Programs and Activities at the time of the complaint
- **Where:** Within a Univ. Program or Activity, Univ. control over location & Respondent, Within the USA
- **How:** Directly (in-person) or indirectly (third party, electronic)

*Why*: These issues impact someone’s ability to access our programs and activities
All employees* are required to report any known or suspected incident of harassment, on the basis of sex, gender identity, gender expression, or sexual orientation including:

- sexual assault,
- dating or domestic violence,
- stalking,
- or sexual exploitation.

Report if the issue is possibly:

- Sexual and unwanted, unwelcome, unsure
- In the context of people in a current or former romantic or sexual relationship
- Based on someone’s actual or perceived identity
- Even if ...
  - Confidentiality requested
  - Minimization

* See next slide for exceptions
Required Reporting Exemptions

1. MSU employees hired to operate under a license or state privilege that provides confidentiality
   • Counseling & Psychological Services
   • Student Health Services
   • VOICE Center (including student advocates on duty)

2. Commissioned Law Enforcement have some state law limits

3. Information obtained during IRB-approved research

4. Information obtained during a speak out or other event
   (Talk with OIE in advance about MSU’s obligations under law with these events)

5. Reporting on self

When in doubt, call the Office of Institutional Equity.
Roles of a Reporter

Things You Should Do

- Listen
- Support
- Report

Things You Don’t Have to Do

- Be a counselor
- Be an advocate
- Be an expert
- Be an investigator
Why Reporting Matters

• Allows MSU to inform the person about available rights, resources, and support
• Helps identify patterns of behavior that can be addressed to improve overall campus climate
• Documents that as an employee you did your duty under University Policy
Making a Report

Notify Institutional Equity, **within 24 hours** of receiving the report.

- **Call** with the reporter or without
- **Send an e-mail** with the information
- **Make a report** on-line
- **Walk over** to talk (with or without the person)
- **Ask us to come to you**
Making a Report

• Typically you’ll be expected to include the information you know in a report
• If you aren’t sure what information is relevant, ask OIE
• If the person expresses fear about your report, let them see it, involve them, and/or talk with the Office of Institutional Equity about the concern
• If you have immediate concerns, please let us know right away
What Happens When You Report

- OIE determines if there is an immediate health or safety risk to campus.
- OIE reaches out (usually via email) to the party who was reported to have experienced the behavior.

What Doesn’t Happen

- An automatic investigation does not launch.
4 Options After Reporting

Without a signed formal complaint:
1. Receive the outreach and take no action
2. Make a report and receive assistance

With a formal signed complaint:
3. Informal Resolution (not always appropriate)
4. Formal Investigation
Supportive & Protective Measures

• Reasonable measures designed to restore or preserve equal access to the University’s Programs and Activities without unreasonably burdening the other party, and includes measures designed to protect the safety of all parties or the University’s campus environment, or prevent or deter potential Prohibited Conduct.
  – Safety measures (escort, change of housing, safety planning)
  – Support measures (referrals to campus/community resources)
  – Academic assistance (extensions, additional tutoring)
• Available to all involved in process
Formal Investigation

- A report is made and OIE talks with the Complainant
- A Formal Complaint MUST be filed/signed prompting investigation
- Respondent is notified and interviewed
- Other witnesses interviewed and other evidence gathered
- Evidence summary is provided to parties
  - 10-day window for parties’ responses
- Investigative report finalized and Hearing Scheduled
  - 10-day window for parties’ responses
- Hearing
  - Testimony of parties & witnesses
    - Non-participatory parties/witnesses' information not to be considered by the Hearings Officer
  - Cross-examination by parties’ advisor
    - Appointed by University if party does not have an advisor
- Written determination from the Hearings Officer
  - Sanctioning imposed if applicable
    - Hearing Officer-student cases; University Administrator w/direct authority-Employee cases
- Right of Appeal-Both Parties
Burden of Proof / Standard of Evidence

• The University has the burden to prove that a Respondent engaged in Prohibited Conduct.
  – The University presumes that the Respondent has not engaged in Prohibited Conduct until it has made a final determination at the conclusion of the Grievance Proceeding.

• The standard of evidence for determining whether a Respondent has engaged in Prohibited Conduct is the *preponderance* of the evidence standard.
  – The preponderance of the evidence standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.
Contacting Law Enforcement
(Other than applicable state required reporting and CSA reporting)

A victim is not required to talk with the police or participate in a criminal process

When to bring in the police:

A. Does the person want to file a police report?

B. Is the person disclosing that they or the campus are in immediate danger?

If the person doesn’t want to talk with the police, but you believe there’s an emergency:
  • Let the person know you are calling the police for help
  • The person isn’t required to talk with the police officer

*If you call UPD you still need to report the incident to Institutional Equity
# Resources at MSU

## Confidential Services

**Campus**

**Counseling & Psychological Services (counseling)**  
Business hours: (406) 994-4531  
After hours: (406) 586-3333  
211 Swingle  
[http://www.montana.edu/wwwcc/](http://www.montana.edu/wwwcc/)

**VOICE (advocacy)**  
24/7 helpline: call (406) 994-7069  
Text during regular business hours: (406) 994-7069  
370 SUB  
[http://www.montana.edu/health/voice/](http://www.montana.edu/health/voice/)

**University Health Partners**  
First Floor Swingle  
Telephone: (406) 994-2311  
[http://www.montana.edu/health/](http://www.montana.edu/health/)

**Bozeman**

**Haven (counseling and advocacy)**  
24/7 helpline: (406) 586-4111  
[http://havenmt.org/](http://havenmt.org/)

**Sexual Assault Counseling Center (counseling & advocacy)**  
24/7 helpline: (406) 586-3333  
[www.bozemanhelpcenter.org](http://www.bozemanhelpcenter.org)

**EAP**  
Telephone: 866-750-1327  
[www.ibhsolutions.com](http://www.ibhsolutions.com)

## Nonconfidential Resources

**Campus**

**Office of Institutional Equity**  
(406) 994-2430  
Montana Hall Room 303  
[http://www.montana.edu/equity/](http://www.montana.edu/equity/)

**University Police Department**  
Emergency: 911  
Non-emergency: (406) 994-2121  
7th Avenue & Kagy Blvd  
[http://www.montana.edu/police/](http://www.montana.edu/police/)

**Office of Diversity and Inclusion**  
(faculty/staff support)  
Telephone: (406) 994-3004  
[http://www.montana.edu/diversity/](http://www.montana.edu/diversity/)

**Diversity and Inclusion Student Commons**  
(student support)  
286 & 368 Stand Union Building  
Telephone: (406) 994-5801  
[http://www.montana.edu/studentdiversity/](http://www.montana.edu/studentdiversity/)

## Bozeman

**Haven (counseling and advocacy)**  
24/7 helpline: (406) 586-4111  
[http://havenmt.org/](http://havenmt.org/)

**Sexual Assault Counseling Center (counseling & advocacy)**  
24/7 helpline: (406) 586-3333  
[www.bozemanhelpcenter.org](http://www.bozemanhelpcenter.org)

**EAP**  
Telephone: 866-750-1327  
[www.ibhsolutions.com](http://www.ibhsolutions.com)
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http://www.montana.edu/equity/
MSU Campuses’ Title IX Coordinators

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http://www.montana.edu/equity/