

**The University of Michigan
University Senate
Motion #11042024-4**

**Motion 4: Motion on Accountability for the Handling of
Gender-Based Violence and Discrimination at the University**

WHEREAS, the UM Equity, Civil Rights & Title IX (ECRT) Office and personnel are responsible for ensuring equal opportunity for all persons regardless of race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status in employment, educational programs, and activities and admissions;¹

WHEREAS, in the University's most recently available 2021 Climate Survey,² fully 18% of students reported experiencing sex discrimination, including anti-LGBTQI+ discrimination, in the prior 12 months, and given that that the University has ~50,000 students, this means ~9,000 of them might have experienced sex discrimination in the past 12 months;³

WHEREAS, based on the same Climate Survey data, gender-based violence continues to be alarmingly common across the University community;

WHEREAS, the Anderson scandal meant that the University had potentially the largest sexual abuse scandal in the entire history of U.S. higher education based on the number of known victims for any single perpetrator and based on the number of known victims who came forward;

WHEREAS, based on the University's most recently available ECRT 2023 Report,⁴ only 10% of students who might have experience sex-based misconduct reported it to the ECRT;⁵ only 6% of reports of sex-based misconduct against a University respondent resulted in a formal investigation or restorative process;⁶ and only 14% of formal investigations resulted in a finding of responsibility at the time of the ECRT's report;⁷

WHEREAS, therefore, based on the University's ECRT's own publicly released data, there is an ongoing and systemic pattern of gender-based violence being underreported and under-investigated at the University;

THEREFORE, BE IT RESOLVED, that the University commit to immediate action to take the problem of gender-based violence far more seriously on all the essential dimensions of prevention, supports and services, training, investigatory protocols, independent audits, and accountability;⁸

BE IT FURTHER RESOLVED, that the University should introduce an independent annual audit by a reputable and highly independent third-party intermediary of how the University handles all reports of gender-based violence;

BE IT FURTHER RESOLVED, that the University issue more effective accountability measures for Title IX and other University personnel who engage in, facilitate, or cover up sex-based and other discrimination, including (but not limited to) by prohibiting them from being eligible for a promotion, teaching award, advising position, or other leadership (including executive committee positions) when:

- They are found responsible for quid pro quo sexual harassment, sexual assault, dating violence, domestic violence, stalking, or other physical violence;
- They are found responsible for covering up an incident of alleged harassment or discrimination despite being obligated to do report or address it under University policy or federal, state, or local law; or
- They oversee the hiring of a new employee, and (i) they know the new employee has previously been found responsible for harassment at another school, (ii) the new employee has not taken accountability for the previous incident, and (iii) the new employee is found responsible for harassment again at the University;

BE IT FURTHER RESOLVED, that the University should adopt [national best practices](#) to ensure that complainants are not punished for reporting harassment or discrimination, including (but not limited to) by prohibiting reporting students from being disciplined for the following conduct:

- Conduct disclosed as a result of the harassment or discrimination being reported and investigated (e.g., consensual sexual activity, drug or alcohol use, trespassing, reasonable self-defense);
- Conduct that occurs because of the harassment or discrimination (e.g., expressing trauma symptoms, class absences);
- Telling other people about the harassment or discrimination;
- Making a so-called “false” statement based solely on the University’s finding that the harassment or discrimination did not occur; or
- Conduct the University knew or should have known was alleged for the purpose of retaliation (e.g., a respondent who has been found responsible and disciplined for sexual assault then files a counter-complaint against their victim alleging the victim was the actual assailant);

BE IT FURTHER RESOLVED, that the University require all Title IX personnel to obtain rape crisis counselor certification;

BE IT FURTHER RESOLVED, that the University expand the actual use of [research-informed supportive measures](#) offered to victims and survivors within the University community, including (but not limited to):

- Issuing a one-way no-contact order (versus a mutual order) that prohibits the respondent from contacting the complainant;
- Allowing the complainant more time or a second opportunity to submit work or take an exam;
- Allowing the complainant to attend classes online or view recorded lectures;
- Adjusting the complainant's transcript so their grades are not harmed by the harassment;
- Informing all staff who are involved in providing or enforcing a supportive measure to be informed of such measures in writing, so they can proactively implement the measure.

Movant:

Jordan Siegel, Professor of Strategy, Stephen M Ross School of Business

Supporting Members:

Bruno Giordani, Professor of Psychiatry, Professor of Neurology, Chief Psychologist, Medical School, Professor of Psychology, College of Literature, Science, and the Arts and Adjunct Professor of Nursing, School of Nursing

Emmanuelle Marquis, Professor of Materials Science and Engineering, College of Engineering

Results: Yes, 1476; No 364; Abstain 331- Motion PASSED

MOTION 4 NOTES

¹ <https://ecrt.umich.edu/about-us/>

² <https://bit.ly/4aBXmbo>

³ 18% * ~50,000 = ~9,000. The source of the 18% figure is the 2021 *University of Michigan Student Campus Climate Report*, 50, <https://diversity.umich.edu/wp-content/uploads/2023/01/Student-Climate-Report-2021.pdf>: “approximately 18% of students in the 2021 sample reported experiencing at least one discriminatory event at U-M in the past 12 months as a result of their sex.”

⁴ *Annual Report Regarding Institutional Response to Reports of Sexual and Gender-Based Misconduct* (ECRT 2023), hereinafter “2023 *Sexual & Gender-Based Misconduct Report*,” <https://ecrt.umich.edu/wp-content/uploads/2023/10/FY23-annual-report.pdf>. The 2023 report

includes reports of sexual and gender-based misconduct received “between July 1, 2022 and June 30, 2023 (FY2023).” Ibid, 5. Reports from prior years are available at <https://bit.ly/3TFBc18>.

⁵ In FY2023, “ECRT received 929 reports of possible sexual and gender-based misconduct.” *2023 Sexual & Gender-Based Misconduct Report*, 5. Given that the 2021 climate survey reveals that approximately 9,000 students experience sex discrimination annually (supra, n3), then the 929 reports received by the ECRT constitutes a reporting of about 10% of incidents.

⁶ Of the 929 reports the ECRT received in FY2023, 517 of them involved possible misconduct by students (216 reports), staff (206 reports), or faculty (95 reports). *2023 Sexual & Gender-Based Misconduct Report*, 5. In response to the reports received in FY2023, the ECRT conducted 29 investigations initiated by a formal complaint. Also, “in two matters involving student respondents, and in no matters involving employee respondents, the Complainant requested, Respondent agreed to, and Title IX Coordinator approved, the use of adaptable resolution.” Ibid, 6. Hence, 31 reports led to an investigation initiated by a formal complaint or the use of an alternative restorative process (approximately 6% of the 517 reports involving a student, staff, or faculty respondent). Regarding the matters that *did not* result in a formal investigation or an adaptable resolution) even though the respondent was a student, staff, or faculty member, the ECRT reports various factors were involved, including (1) an inability to identify the complainant or the respondent, (2) the reported conduct was not a potential violation of the sexual and gender-based misconduct policy, (3) the complainant requested the ECRT to not open a formal process and indicated they would not participate, and (4) the complainant did not respond to the ECRT and there was insufficient information to proceed. Ibid, 5–6.

⁷ “Of the 17 investigative resolutions under the Student Procedures,” according to the ECRT, 3 were completed entirely as of data gathering for this report.” *2023 Sexual & Gender-Based Misconduct Report*, 33. Of those investigations, “1 resulted in a finding of a violation(s) of the Policy.” Ibid. “Of the 12 investigations conducted under the Employee Procedures: 6 were conducted under the Sexual and Gender-Based Misconduct Process; 6 were conducted under the Title IX Misconduct Process.” Ibid, 41. “Of the 6 investigations conducted using the Sexual and Gender-Based Misconduct Process of the Employee Procedures,” according to the ECRT, “2 have been completed with a determination regarding responsibility” by the time of the report. Of those matters, “1 resulted in a finding of at least one Policy violation or other inappropriate behavior.” Ibid, 45. “Of the 6 investigations conducted using the Title IX Misconduct Process of the Employee Procedures, the ECRT reports, “4 investigations/hearings that have been completed to a determination regarding responsibility” by the time of the report. Of those matters, “2 resulted in a finding of at least one Policy violation.” Ibid, 48. Hence, the 29 investigative resolutions (student and employee) have resulted in a total of 4 findings of violations ($4/29 = \sim 14\%$).

⁸ These recommendations have been developed in partnership with a highly reputable and independent national organization, the National Women's Law Center, <https://nwlc.org/>.