POLICY PROHIBITING DISCRIMINATION, HARASSMENT, AND MISCONDUCT

SLT 9.1

Date of Last Update:
October 14, 2026

Approved By:

- Senior Leadership Team

Responsible Office:
Civil Rights and Title IX

POLICY STATEMENT

1. Purpose

GVSU is committed to providing an educational and employment environment that is free from discrimination and harassment based on Protected Characteristics, and free from retaliation for engaging in protected activity.

GVSU values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the Resolution Process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of its education programs and activities, GVSU has developed this Policy and related procedures that provide for prompt, fair, and impartial resolution of allegations of discrimination, harassment or misconduct based on Protected Characteristics.

2. Notice of Discrimination, Harassment, and Misconduct Based on Protected Characteristics

GVSU seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting discrimination, harassment, and misconduct in public post-secondary education institutions.

GVSU does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived Protected Characteristics.

This Policy covers alleged discrimination, harassment and misconduct in employment and in access to educational opportunities, and prohibits such misconduct. Therefore, any member of the GVSU community whose acts objectively deny, deprive, unreasonably interfere with or limit the education or employment, residential and/or social access, benefits, and/or opportunities of any member of GVSU's community, guest, or visitor on the basis of that person's actual or perceived Protected Characteristic(s), is in violation of this Policy.

Actual or perceived Protected Characteristics as referenced in this Policy include:

- Age
- Color
- Disability (physical or mental)
- Ethnicity
- Familial Status (including Parental Status)
- Gender expression
- Gender identity
- Height
- Marital status
- National origin (including Shared Ancestry)
- Political affiliation
- Pregnancy or Related conditions
- Race
- Religion
- Sex
- Sexual orientation
- Veteran or active-duty military status (including disabled veteran; recently separated veteran; active-duty, wartime, or campaign badge veteran; and Armed Forces Service Medal veteran)
- Weight

GVSU will promptly and effectively address any such discrimination, harassment or misconduct of which it has knowledge or Notice using the resolution process outlined in the Resolution Process for Alleged Violations of GVSU Policy Prohibiting Discrimination, Harassment and Misconduct.

3. Contacts

GVSU has appointed the following individual(s), to coordinate GVSU's compliance with this policy and federal, state, and local civil rights laws and ordinances:

For sex discrimination, sex-based harassment, and other sexual misconduct

allegations:

Title IX Coordinator

Kathleen VanderVeen
Associate Vice President of Civil Rights and Title IX
Title IX and ADA Coordinator
Office of Civil Rights and Title IX
Zumberge
1 Campus Drive
616.331.9532
vandervk@gvsu.edu
www.gvsu.edu/titleix

For other forms of discrimination, harassment, and misconduct allegations:

Office of Civil Rights and Title IX (OCRTIX)
Zumberge
1 Campus Drive
616.331.9532
www.gvsu.edu/titleix

The Title IX Coordinator and other members of the Office of Civil Rights and Title IX (OCRTIX) are responsible for providing comprehensive education and training; coordinating GVSU's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy and related procedures to ensure an education and employment environment free from discrimination, harassment, and misconduct.

GVSU recognizes that allegations under this Policy may include multiple forms of discrimination, harassment or misconduct, as well as violations of other GVSU policies; may involve various combinations of students, employees, and other members of the GVSU community; and may require the simultaneous attention of multiple GVSU departments.

Accordingly, all GVSU departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law, and consistent with other applicable GVSU policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination, harassment, or misconduct.

4. External Contact Information

Concerns about GVSU's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

Office for Civil Rights (OCR)
U.S. Department of Education
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582

Email: OCR.Denver@ed.gov
For Complaints involving employee-on-employee conduct: Equal Employment Opportunity Commission (EEOC)

EEOC Regional Office
Patrick V. McNamara Building, 477 Michigan Avenue, Room 865
Detroit, MI, 48226

5. Definitions (Appendix A)

Please see Appendix A for a list of definitions pertaining to the Policy and related procedures.

6. Mandatory Reporters

All GVSU faculty and employees (including student-employees), Resident Assistants, and Graduate Assistants, other than those deemed Confidential Employees, are Mandatory Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, or misconduct to appropriate officials immediately, although there is a Limited Event Exception as defined in Appendix A. Supportive Measures may be offered as the result of such disclosures without formal GVSU action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandatory Reporters, as those details must be shared with the OCRTIX.

If a Complainant seeks formal action in response to their allegations, reporting to any Mandatory Reporter can connect them with resources to report alleged crimes and/or Policy violations. These employees will immediately pass Notice to the OCRTIX (and/or GVPD, if

desired by the Complainant or required by law), who will then act in accordance with their procedures.

Failure of a Mandatory Reporter, as described above in this section, to report an incident of discrimination, harassment or misconduct of which they become aware is a violation of GVSU Policy and can be subject to disciplinary action for failure to comply or failure to report.

A Mandatory Reporter who is themselves a target of discrimination, harassment, or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

If a student (or a student's parent or other legal representative) informs a GVSU employee of the student's pregnancy or related conditions, in the absence of an associated report of discrimination, harassment, or other misconduct, Mandatory Reporters need not inform OCRTIX. However, the employee must provide the reporting person with information as outlined in the Pregnancy-Based Grievances and Complaints provision of this Policy.

7. Confidential Reporting Options

The following sections describe GVSU's confidential reporting options for a Complainant (including parents or legal guardians when appropriate):

If a Complainant would like to confidentially access support and resources, the Complainant may speak with Confidential Employees. Confidential Employees are not required to notify the OCRTIX about prohibited conduct under this policy, but will provide information to the reporting individual regarding how to contact OCRTIX, how to make a Complaint, and how OCRTIX can help.

There are three categories of Confidential Employees: A) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors; B) Those whom GVSU has specifically designated as Confidential Resources for purposes of providing support and resources to the Complainant; and C) Those conducting human subjects research as part of a study approved by GVSU's Institutional Review Board (IRB).

A. Confidential Employees by Law or Ethics

For those in category A), above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose

by law or court order. These employees include the following:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff

B. Designated Confidential Resources

To enable Complainants to access support and resources without filing a Report or Complaint, if they so choose, GVSU has designated specific employees as Confidential Resources. Confidential Resources are not required to report actual or suspected discrimination, harassment, or misconduct in a way that identifies the Parties. They will, however, provide the Complainant with the OCRTIX's contact information and offer options and resources. Confidential Resources do not have any obligation to inform an outside agency or GVSU official of identifying information or the details of the allegations unless a Complainant has requested the information be shared. These employees include the following:

- On-campus Victim Advocates
- Employee Ombuds
- Student Ombuds

C. Confidential Employees Conducting Human Subjects Research

Those persons conducting IRB-approved human subjects research at GVSU who, during the course of the research, learn of allegations of discrimination, harassment or misconduct, are considered Confidential Employees while conducting the approved study. They are not required to notify the OCRTIX about prohibited conduct under this policy, but will provide information to the reporting individual regarding how to contact OCRTIX, how to make a Complaint, and how OCRTIX can help.

In addition, Complainants may speak with individuals unaffiliated with GVSU without concern that this Policy will require them to disclose information to the institution without permission:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

8. Methods of Notice

If a Complainant would like to provide the details of an incident under this Policy, the Notice may be provided directly to the OCRTIX or to a Mandatory Reporter who will notify the OCRTIX

through one of the following methods:

A. Making a Report

A Report provides Notice to GVSU of an allegation or concern about discrimination, harassment or misconduct, and provides an opportunity for the OCRTIX to provide information, resources, and Supportive Measures. Such a Report may be made verbally or in writing at any time (including during non-business hours) by using the telephone number, email address, or mailing address of the OCRTIX.

If a Complainant makes a Report but does not wish to file a Complaint, GVSU will maintain the privacy of information to the extent possible. Therefore, a Complainant should not withhold Notice for fear of a loss of confidentiality. By giving Notice, GVSU can discuss the incident and/or provide Supportive Measures as needed to those involved. For more information regarding Confidential Reporting Options, refer to that provision of this policy.

B. Making a Complaint

A Formal Complaint ("Complaint") provides written Notice to GVSU that the Complainant would like to initiate an investigation or other appropriate resolution procedures. Such a Complaint must be submitted in writing, using the OCRTIX Complaint Form. The Complaint Form may be submitted at any time (including during non-business hours) in person, online, by email address or by mailing address to the OCRTIX.

A Complainant may initially make a Report and may decide at a later time to make a Complaint.

A Complainant does not have to be a member of the GVSU community to file a Complaint under the Jurisdiction of this Policy. At the time of filing the Complaint, a Complainant must be participating in or attempting to participate in a GVSU education program or activity.

C. Online Submission

A Complainant may submit online Notice at https://cm.maxient.com/reporting.php?GrandValley.

Anonymous Notice is accepted**.** However, please note that in order to properly address or investigate the allegations, the Notice may give rise to a need to try to determine the Parties' identities. Please also be aware that Anonymous Notice may limit GVSU's ability to investigate, respond, and provide remedies. It also may not be possible to provide Supportive Measures to Complainants who are the subject of Anonymous Notice.

Measures intended to protect the community or redress or mitigate harm may be enacted in response to an Anonymous Notice.

Reporting carries no obligation to initiate a Complaint, and in most situations, GVSU is able to respect a Complainant's request to not initiate a Resolution Process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a serious threat to health and/or safety, where GVSU may need to initiate a Resolution Process, signing and submitting its own Complaint Form through the OCRTIX.

9. Time Limits on Reporting

There is no time limitation on providing Reports or Complaints to the OCRTIX. However, if the Respondent is no longer subject to GVSU's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or rendered impossible.

The OCRTIX will review all Reports or Complaints significantly impacted by the passage of time (including, but not limited to, impacts caused by the rescission or revision of Policy) for determination of whether to act upon it. The OCRTIX may document allegations for future reference, offer Supportive Measures, and/or engage in informal or formal action, as appropriate.

10. Prompt & Effective Response to Allegations

After receipt of Notice through Report or Complaint of prohibited conduct under this policy, GVSU will:

1. Treat the Complainant and Respondent equitably.
2. Offer and coordinate Supportive Measures, as appropriate, for the Complainant.
3. Offer and coordinate Supportive Measures as appropriate, for the Respondent, if GVSU initiates Formal Resolution (Grievance Procedures) or offers an Informal Resolution process to the Respondent.
4. Notify the Complainant, or if the Complainant is unknown, the individual who reported the conduct, of the process for filing a written Complaint if desired, the Grievance Procedures, and the Informal Resolution process, if available and appropriate.
5. If a Complaint is made, notify the Respondent of the Grievance Procedures and the Informal Resolution process, if available and appropriate.
6. In response to a Complaint, initiate GVSU's Grievance Procedures or Informal Resolution process, if available and appropriate.
7. In the absence of a Complaint, or in the case of withdrawal of any or all of the allegations in a Complaint, and/or in the absence or termination of an Informal Resolution process, make a fact-specific determination regarding whether the OCRTIX will initiate a Complaint itself.

8. If the OCRTIX initiates a Complaint itself, make reasonable efforts to notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others.
9. Regardless of whether a Complaint is initiated, take other appropriate prompt and effective steps in effort to ensure that conduct prohibited by this Policy does not continue or recur within GVSU's education program or activity, in addition to providing remedies to an individual Complainant.

For additional information regarding the Resolution Process under this Policy, please review the Resolution Process for Alleged Violations of GVSU Policy Prohibiting Discrimination, Harassment and Misconduct.

11. Disability-Based Grievances and Complaints

Allegations of discrimination, harassment or misconduct on the basis of an actual or perceived disability, including instances in which the provision of reasonable accommodations has allegedly had a discriminatory effect, will be resolved under this Policy and related procedures.

However, grievances or complaints related to one's disability status and/or type of accommodation provided, are addressed as outlined in GVSU's ADA Accommodation Policy for Faculty, Staff and Students with Disabilities.

12. Pregnancy-Based Grievances and Complaints

Allegations of discrimination, harassment or misconduct on the basis of an actual or perceived pregnancy, including instances in which the provision of reasonable accommodations has allegedly had a discriminatory effect, will be resolved under this Policy and related procedures.

However, grievances or complaints related to one's pregnancy status and/or type of accommodation provided, are addressed as outlined in GVSU's Pregnancy, Childbirth and Pregnancy Related Conditions Policy.

When a student (or a student's parent or other legal representative) informs a GVSU employee of the student's pregnancy or related conditions, in the absence of an associated report of discrimination, harassment, or other misconduct, Mandatory Reporters need not inform OCRTIX. However, the employee must provide the reporting person with the OCRTIX's contact information and inform that person that the OCRTIX can do the following in effort to prevent sex discrimination or hostile environment based on the student's Pregnancy or Related Condition *(1)*:

- Inform the student of their rights under this Policy;
- Provide reasonable accommodations, including private space and a reasonable break for lactation;

- Allow voluntary leave of absence, as medically necessary, and reinstatement upon return;
- Ensure individualized reasonable modifications are provided as needed (and as defined in the related Pregnancy Policy);
- Refrain from requesting supporting documentation when a) it has already been provided, 2) it relates to lactation needs, c) it is obvious, d) it constitutes a routine or simple modification, or e) other non-pregnancy related students receiving the accommodation obtain it without supporting documentation.

13. Scope

This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

This Policy prohibits all forms of discrimination, harassment or misconduct on the basis of the identified Protected Characteristic(s), and may be applied to incidents, to patterns, and/or to the institutional culture or climate, all of which may be addressed in accordance with this Policy.

This Policy is only applicable to alleged incidents of discrimination, harassment or misconduct that occur on or after August 14, 2020. For alleged incidents occurring prior to August 14, 2020, the federal regulations in place at the time of the alleged incident apply.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in GVSU's program or activities, including education and employment.

14. Jurisdiction

This Policy applies to alleged discrimination, harassment or misconduct occurring in circumstances where GVSU has disciplinary authority at or during GVSU's education programs and activities (including locations, events, or circumstances in which GVSU exercises substantial control).

This Policy applies to alleged incidents occurring within any building owned or controlled by a GVSU-recognized student organization.

This Policy also applies to alleged off-campus misconduct if the effects of that conduct are to objectively limit or deny a person's access to GVSU's education program or activities.

GVSU may also extend jurisdiction to online conduct occurring on campus or off-campus when the conduct affects a substantial GVSU interest. For more information regarding online conduct, refer to the Online Discrimination, Harassment or Misconduct provision of this policy.

A substantial GVSU interest includes, but is not limited to, prohibiting the following related conduct:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined by GVSU that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
3. Any situation that significantly and objectively impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with GVSU's educational interests or mission.
5. Any situation that is sufficiently serious that it objectively denies or limits a GVSU community member's ability to participate in or benefit from GVSU's programs or activities. Objectivity is based on a reasonably prudent person in like circumstances.

For disciplinary action to be issued under this Policy, the Respondent must be a GVSU faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of GVSU community, the OCRTIX will offer to assist the Complainant in identifying appropriate institutional and local resources and support options, and GVSU will implement appropriate Supportive Measures and/or remedial actions where necessary. GVSU can also assist the Complainant in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendor employees serving GVSU through third-party contracts are subject to these policies and procedures given their employer's agreement to be bound through the respective contracts.

When a party is participating in a dual enrollment/early college program, GVSU will coordinate with the party's home institution to determine jurisdiction and coordinate providing Supportive Measures and responding to the Report or Complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

When the Respondent is enrolled in or employed by another institution, the OCRTIX can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to initiate a process under that institution's policies.

Similarly, the OCRTIX may be able to assist and support, through remedial measures, a GVSU student or employee Complainant who experiences discrimination elsewhere (such as in an externship, study abroad program, or other environment external to GVSU where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse).

GVSU does not have jurisdiction to handle the matter through its grievance process if the conduct did not occur against a person in the United States.

15. Supportive Measures

GVSU will offer and implement appropriate and reasonable Supportive Measures to the Parties upon Notice of alleged discrimination, harassment or misconduct. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to GVSU's education program or activity, including measures designed to protect the safety of all Parties and/or GVSU's educational environment and/or to deter discrimination, harassment, and misconduct.

The OCRTIX promptly offers to make Supportive Measures available to the Parties upon receiving Notice. At the time that Supportive Measures are offered, if a Complaint has not been filed, GVSU will inform the Complainant, in writing, that they may file a Complaint with GVSU either at that time or in the future. The OCRTIX will work with a party to ensure that their wishes are considered with respect to any planned and implemented Supportive Measures.

GVSU will maintain the confidentiality of the Supportive Measures, provided that confidentiality does not impair GVSU's ability to provide those Supportive Measures or investigate and resolve the allegations. GVSU will act to ensure as minimal an academic or occupational impact on the Parties as possible and appropriate. GVSU will implement measures in a way that does not unreasonably burden any party.

These Supportive Measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Implementing contact restrictions (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Assistance with obtaining a PPO or Cease and Desist through referral to GVPD.
- Class schedule modifications, withdrawals, or leaves of absence
- Any other actions deemed appropriate by the OCRTIX to address the objective harm

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as Collateral Misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of GVSU's decision to provide, deny, modify, or terminate Supportive Measures applicable to them. A request to do so should be made in writing to the OCRTIX. An impartial employee, other than the employee who implemented the Supportive Measures, who has authority to modify or reverse the decision, will determine whether the decision is sufficiently inconsistent with the definition of Supportive Measures to warrant modification or reversal. GVSU will also provide the Parties with the opportunity to seek additional modification or termination of Supportive Measures applicable to them if circumstances materially change. GVSU typically renders decisions on Supportive Measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the OCRTIX.

16. Online Discrimination, Harassment or Misconduct

GVSU policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited by this Policy, when those behaviors occur in or have an effect on GVSU's education program and activities, or when they involve the use of GVSU networks, technology, or equipment.

Although GVSU may not control websites, social media, and other venues through which the alleged discriminatory or harassing communications are made, when such communications are reported to GVSU, it will seek to address and mitigate the effects. This effort may include use of the Resolution Process to address off-campus, online conduct that objectively interferes with a person's access to or participation in GVSU's education programs or activities.

17. Inclusion related to Gender Identity/Expression

GVSU strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their actual or perceived Gender Identity or Expression, including intersex, nonbinary, transgender, agender, two-spirit, gender-expansive, and gender-diverse students and employees.

Discrimination, harassment or misconduct on the basis of Gender Identity or Expression is not tolerated by GVSU. If a member of the GVSU community believes they have been subjected to prohibited conduct under this Policy, they should follow the appropriate reporting process described herein. Intentional misgendering, deadnaming, or mispronouning may be considered a violation of this policy.

This Policy should be interpreted consistent with the goals of maximizing inclusion for all,

including students and employees with varying gender identities, including:

- Maintaining the privacy of all individuals consistent with law;
- Ensuring all students have equal access to educational programming and activities consistent with the law;
- Facilitating participation in programs and activities by providing all students access to appropriate facilities, including restrooms and locker rooms. For a list of gender-inclusive restrooms and locker rooms on campus see our Facilities Services page;
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities;
- Providing professional development for employees and education for students on topics related to gender inclusion;
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the GVSU community.

18. Prohibited Conduct-Discrimination or Harassment Offenses

Students and employees are entitled to an educational and employment environment that is free from discrimination and harassment.

The sections below describe the specific forms of legally prohibited discrimination and harassment on the basis of actual or perceived Protected Characteristics, that are also prohibited under GVSU Policy.

When speech or conduct is constitutionally protected, it will not be considered a violation of GVSU Policy, though Supportive Measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Violation of any other GVSU policies may constitute discrimination or harassment when motivated by actual or perceived Protected Characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

A. Discrimination

Discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived Protected Characteristic. Discrimination also includes a failure to provide reasonable accommodations as required by law or policy, such as for a person's disability, religion, or creed.

Discrimination can take two primary forms:

1. Disparate Treatment Discrimination:
Any intentional differential treatment of a person or persons that is based on a person's actual or perceived Protected Characteristic and that:

- excludes an individual from participation in;
- denies the individual benefits of; or
- otherwise adversely affects a term or condition of an individual's participation in a GVSU program or activity.

Differential treatment means others have received more favorable treatment and there is no legitimate nondiscriminatory reason for the more favorable treatment.

2. Disparate Impact Discrimination:
Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:

- excludes an individual from participation in;
- denies the individual benefits of; or
- otherwise adversely affects a term or condition of an individual's participation in a GVSU program or activity.

Disproportionate impact means others have not been impacted negatively and there is no legitimate nondiscriminatory reason for the more positive impact.

B. Discriminatory Harassment

Discriminatory Harassment includes all of the following:

- unwelcome conduct on the basis of actual or perceived Protected Characteristic(s), that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it objectively limits or denies a person's ability to participate in or benefit from GVSU's education programs or activities

C. Sex-based Harassment

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, *(2)* including sex stereotypes, sex characteristics, and Pregnancy or Related conditions.

1. Quid Pro Quo Harassment:

- an employee agent, or other person authorized by GVSU
- to provide an aid, benefit, or service under GVSU's education program or activity,
- explicitly or impliedly conditions the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2. Hostile Environment Harassment:

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is objectively offensive, and
- is so severe and pervasive,
- that it effectively denies a person equal access to participate in or benefit from GVSU's education program or activity

3. Sexual Assault *(3)* The following definitions describe prohibited conduct that constitutes sexual assault

(a) Rape is defined as:

- Penetration, no matter how slight,
- of the vagina or anus of the Complainant,
- with any body part of the Respondent or by Respondent's use of an object, or
- oral penetration of the Complainant by a sex organ of Respondent, or by the Respondent's use of a sex-related object
- without the consent of the Complainant *(4)*.

(b) Fondling (Criminal Sexual Contact) is defined as:

- The intentional touching of the clothed or unclothed body parts of the Complainant by the Respondent,
- (or the forced touching of the clothed or unclothed body parts of the Respondent by the Complainant)
- for the purpose of sexual degradation, gratification, or sexual humiliation
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

(c) Incest is defined as:

- Nonforcible sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by law.

(d) Statutory Rape is defined as:

- Nonforcible sexual intercourse,
- with a person who is under the statutory age of consent.

4. Dating Violence is defined as:

- violence,
- committed by a person,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
        - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
        - Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence(5) **is defined as:**

- Violence that constitutes a felony or misdemeanor crime committed by a current or former spouse of intimate partner of the victim under the family or domestic violence laws of Michigan, or,
- use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enable, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior,
- committed by a person who
    - is a current or former spouse or intimate partner of the Complainant, or person similarly situation to a spouse of the victim;
    - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner
    - shares a child in common with the Complainant, or

- commits acts against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of MI.

6. Stalking is defined as:

- engaging in a course of conduct,
- directed at the Complainant,
- that would cause a reasonable person
- to fear for the person's safety or the safety of others, or
- Suffer substantial emotional distress.

For the purpose of this definition-

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

GVSU reserves the right to address sex-based conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a Protected Characteristic. Addressing such conduct will not result in the imposition of discipline under this Policy, but may be referred to other appropriate student or employee conduct processes.

For assistance with Informal Resolution techniques under these circumstances, contact the Office of Civil Rights and Title IX.

Separate treatment on the basis of sex in the context of sex-separate living facilities and sex-separate athletic teams is not discrimination.

D. Gender-Identity or Sexual Orientation-based Harassment

Gender Identity-based Harassment and Sexual Orientation-based Harassment are forms of discrimination and include harassment on the basis of gender identity or sexual orientation *(6)*, including related stereotypes or characteristics.

1) Quid Pro Quo Harassment:

- an employee agent, or other person authorized by GVSU
- to provide an aid, benefit, or service under GVSU's education program or activity,
- explicitly or impliedly conditions the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct because of their actual or perceived gender identity or sexual orientation.

2) Hostile Environment Harassment:

- unwelcome gender identity or sexual orientation- based conduct, that
- based on the totality of the circumstances,
- is objectively offensive, and
- is so severe and pervasive,
- that it effectively denies a person equal access to participate in or benefit from GVSU's education program or activity

GVSU reserves the right to address offensive conduct and/or harassment on the basis of gender identity and sexual orientation that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a Protected Characteristic. Addressing such conduct will not result in the imposition of discipline under this Policy, but may be referred to other appropriate student or employee conduct processes.

For assistance with Informal Resolution techniques under these circumstances, contact the OCRTIX.

19. Prohibited Misconduct- Sexual Exploitation

The following definition describes prohibited sexual misconduct that constitutes sexual exploitation:

A. Sexual exploitation is defined as:

- A person taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

1. Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
2. Invasion of sexual privacy (e.g., doxxing)
3. Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression

4. Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
5. Prostituting another person
6. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
7. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
8. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
9. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
10. Knowingly soliciting a minor for sexual activity
11. Engaging in sex trafficking
12. Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
13. Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

20. Prohibited Misconduct-Retaliation

The following definition describes prohibited conduct that constitutes retaliation:

A. Retaliation is defined as:

- Adverse action, including intimidation, threats, coercion or discrimination
- against any person,
- by GVSU, a student, employee, or a person authorized by GVSU to provide aid, benefit, or service under GVSU's education program or activity,
- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in

any manner in an investigation or Resolution Process under the GVSU Policy Prohibiting Discrimination, Harassment And Misconduct Procedures, including an Informal Resolution process, or in any other appropriate steps taken by GVSU to promptly and effectively end any discrimination or harassment in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation *(7)*.

It is also not retaliation for GVSU to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the GVSU Policy Prohibiting Discrimination, Harassment and Misconduct. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith..

Peer to Peer Retaliation is also prohibited.

21. Other Prohibited Misconduct

The following definitions describe other conduct prohibited under this Policy, if such conduct is on the basis of Protected Characteristics and does not otherwise meet a definition of prohibited misconduct under the Policy:

A. Bullying is defined as:

- repeated and/or severe aggressive behavior,
- that is objectively likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant, that is not speech or conduct that is otherwise protected by the First Amendment.

B. Endangerment is defined as:

- threatening or causing physical harm,
- extreme verbal, emotional, or psychological abuse, or
- other conduct which threatens or endangers the health or safety of any person or damages their property

C. Hazing is defined as:

- any intentional, knowing, or reckless act
- committed by a person (whether individually or in concert with other persons)
- against another person or persons
- regardless of the willingness of such other person or persons to participate, that-

(I) is committed in the course of an initiation into, an affiliation with, or the maintenance of

membership in, a student organization; and

(II) causes or creates a risk, above the reasonable risk encountered in the course of participation in the University's programs or activities (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including but not limited to those behaviors identified in relevant laws or campus policies.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership be contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of hazing to be upheld.
- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered hazing.
- Hazing is not confined to the student group or student organization with which the person subjected to the hazing is associated.

22. Unauthorized Disclosure: *(8)*

Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process is prohibited except as required by law or as expressly permitted by GVSU.

Publicly disclosing institutional work product (produced, compiled, or written by GVSU for purposes of its investigation and resolution of a Complaint) that contains personally identifiable information without authorization or consent is also prohibited.

Parties and Advisors are prohibited from disclosing information obtained by GVSU through the Resolution Process, to the extent that information is the work product of GVSU or contains personally identifiable information, without authorization.

Violation of this Policy provision may be subject to significant sanctions

23. Failure to Comply or Process Interference

Intentional failure to comply with the following OCRTIX actions is a violation of this Policy:

- reasonable directives of OCRTIX in the performance of their official duties, including with the terms of a no contact order;
- emergency removal or interim suspension terms;
- sanctions;
- terms of an Informal Resolution Agreement;

- mandated reporting duties as defined in this Policy

Intentional interference with the Resolution Process is a violation of this Policy. Such interference can include but is not limited to:

- Destruction of or concealing of evidence;
- Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence;
- Intimidating or bribing a witness or party

24. Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings of Consent, Force and Incapacitation apply:

1. **Consent** is defined as *(9)*:

- knowing, and
- voluntary, and
- clear permission
- expressed by word or action
- prior to engaging in and during sexual activity.

Consent is active, not passive. Silence, or lack of resistance, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in sexual activity.

Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Consent may be withdrawn at any time as long as the withdrawal is reasonably and clearly communicated by word or action. If consent is withdrawn, that sexual activity should stop.

Previous relationships or prior consent cannot imply consent to future sexual acts. Consent cannot be given by an individual who one knows to be – or based on the circumstances should reasonably have known to be – incapacitated.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

An individual cannot consent who has been coerced, including being compelled by force, threat of force, or deception; who is unaware that the act is being committed; or who is coerced by a Supervisory or disciplinary authority.

Consent may not be given by a person who has not reached the legal age of consent under applicable law. Being impaired by alcohol or drugs will never function as a defense for any behavior that violates this Policy.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on GVSU to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited misconduct. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault *(10)*

2. Force is defined as:

- the use of physical violence, and/or
- physical imposition
- to gain sexual access.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, 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. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

3. Incapacitation is defined as:

- a state where a person is incapable of giving consent.

An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where,

why, and how" of their sexual interaction).

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

25. Standard of Proof

GVSU uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that GVSU will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the Policy as alleged. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on GVSU and not on the parties. However, GVSU cannot obtain protected health information without a signed release from the treated individual for use of the health information in the grievance process.

Absent the necessary proof, a Respondent is not considered in violation of the Policy and is presumed not to have violated the policy unless and until such proofs are made.

26. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process including with the use of evidence fabricated with artificial intelligence, can be subject to discipline under appropriate GVSU policies.

27. Consensual Relationship Policy

GVSU recognizes there are inherent risks in any romantic or sexual relationships between persons in unequal positions, such as faculty member-student, Resident Assistant-supervisory student, or supervisor-employee. Any persons engaging in such relationships are subject to GVSU's Consensual Relationship Policy, SLT 9.2.

This Policy (Policy Prohibiting Discrimination, Harassment and Misconduct) will also apply to allegations of prohibited conduct under this Policy within such consensual relationships. Where the alleged prohibited conduct is on the basis of sex and by an Employee against a student, Informal Resolution will not be permitted.

28. Resolution Process Confidentiality & Privacy

GVSU makes every effort to preserve the privacy of those involved in a process under this Policy.

Except as permitted or required by law, and applicable regulations, or to fulfill the purposes of this Policy, GVSU will not share the identity of:

1. any individual who has made a Complaint under this Policy;
2. any Complainant;
3. any individual who has been reported to be the perpetrator of discrimination, harassment or misconduct;
4. any Respondent; or
5. any witness

Additional information regarding confidentiality and privacy can be found in GVSU's Confidentiality, Data & Security Policy and in the Confidential Reporting Options provision of this policy.

For additional information regarding unauthorized disclosure, please refer to the Unauthorized Disclosure provision of this policy.

29. Interventions to Address Allegations of Discrimination, Harassment or Misconduct.

GVSU uses a number of interventions to address allegations of discrimination, harassment or misconduct, including offering Supportive Measures, initiating a Formal Resolution Process (Grievance Procedures), or engaging in an Informal Resolution Process. These efforts may include, but are not limited to, problem-solving, assistance, intervention, confrontation, investigation, and/or Policy enforcement.

When conflicts arise between the right of members of the community to be free from discrimination, harassment or misconduct, and those exercising their right to religious

freedom or freedom of expression, GVSU will seek to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, GVSU will offer remedial solutions and/or enforce its Policies while also respecting the rights of all members of its community.

For questions regarding Expressive Activity on GVSU owned and controlled property, please refer to the relevant provisions of GVSU's Grounds and Facility Use Policy.

30. Emergency Removal, Interim Actions, and Leaves of Absence

GVSU can act to remove a student Respondent accused of Discrimination, Harassment or Misconduct from its education program or activities, partially or entirely, on an emergency basis if an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by GVSU using its standard risk assessment procedures. For additional information on emergency removal, interim actions and leave of absences, see the relevant Policy procedures.

Employees are subject to existing procedures for interim actions and leaves.

31. Federal Timely Warning Obligations

GVSU must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of GVSU community pursuant to the Clery Act.

GVSU will ensure that a Complainant's name and other personal identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

32. Amnesty

In the interest of safety and compliance with all relevant laws and regulations, GVSU encourages the reporting of misconduct and crimes by Complainants, Respondents and witnesses. Sometimes, individuals are hesitant to give Notice to GVSU officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident.

It is in the best interests of the GVSU community that Complainants choose to give notice of misconduct to GVSU officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, GVSU offers students amnesty from such policy violations as underage alcohol consumption or the use of illicit drugs, when related to the alleged incident of prohibited conduct.

Student Amnesty

GVSU maintains an amnesty policy for students. For criteria regarding granting amnesty, please see GVSU policy STU 10.0.

33. Preservation of Evidence

The preservation of evidence is critical to any potential criminal prosecution and to obtaining restraining (protective) orders, and it is particularly time sensitive. Therefore, OCRTIX will inform the Complainant of the importance of preserving evidence at the time of initial receipt of a Complaint.

34. Independence and Conflicts of Interest

The Coordinator manages the OCRTIX and acts with independence and authority, free from bias and conflicts of interest. The Coordinator oversees all resolutions under this Policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, discrimination or harassment by the Coordinator, contact the Vice President for People, Culture, and Equity.

Concerns of bias, misconduct, discrimination, harassment or a potential conflict of interest by any other OCRTIX employee or Resolution Pool member should be raised with the Coordinator.

35. Revision of Policy

The Coordinator reviews and updates these policies and procedures regularly. GVSU reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect, unless otherwise required by law.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the laws of the State of Michigan and federal laws that frame the provisions, generally.

This Policy is retroactively effective 08-14-2020, pursuant to guidance from the Department of Education dated February 04, 2025.

FOOTNOTES

[1] The following are rights that are also applicable to employees of GVSU with Pregnancy or Related Conditions.

[2] Throughout this Policy, “on the basis of sex” or “sex-based conduct” means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex.

[3] This would include having another person touch you sexually, forcibly, and/or without your consent.

[4] This includes Sodomy and/or sexual assault with an object

[5] To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

[6] Throughout this Policy, “on the basis of gender identity or sexual orientation” means conduct that is directed to the Complainant because of his/her/their actual or perceived gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, gender-expansive, and gender-diverse students and employees and/or because of his/her/their actual or perceived sexual orientation, including members of the LGBTQ+ community.

[7] For additional information regarding Expressive Activity refer to GVSU’s Grounds and Facility Use Policy.

[8] Nothing in this section restricts the ability of the Parties to obtain and present evidence, including by speaking to witnesses (as long as it does not constitute intimidation or retaliation under this Policy), consult with the Parties’ own family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

[9] The definition of consent under Michigan law is applicable to criminal prosecutions for sex offenses. Such definition may differ from the definition used by GVSU to address Policy violations.

[10] Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” if part of the kink would be consensual.