



Guidepost Solutions LLC
707 Wilshire Boulevard
Suite 3850
Los Angeles, CA 90017
T: +1 213 624 9000
F: +1 213 624 9001

June 13, 2022

Board of Regents, University of Michigan
Fleming Administration Building
503 Thompson Street
Ann Arbor MI 48109-1340

Mary Sue Coleman
President, University of Michigan
1109 Geddes Ave.
Ann Arbor, MI 48109

Via e-mail c/o Vice President and Secretary of the University

Dear Board of Regents and President Coleman,

Enclosed please find Guidepost Solutions' Report of Review of Sexual Misconduct Policies and Procedures dated June 13, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Asha", written over a solid horizontal line.

Asha Muldro
Senior Managing Director
Deputy General Counsel

cc: Sally Churchill, Vice President and Secretary of the University

Enclosure



WE ARE YOUR GUIDEPOST.

Guidepost Solutions University of Michigan Report

Presented by:

Guidepost Solutions LLC
707 Wilshire Boulevard, Suite 3850
Los Angeles, CA 90017

June 13, 2022

The following report is furnished for the sole and exclusive use of the client to whom it is provided. We often use third party sources and database providers in the course of our work. We believe that the sources and methodologies we use are reliable; however, we make no representation or guarantees as to the accuracy or completeness of information obtained through third party sources and database providers.

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY.....	1
II.	CREATION OF THE EQUITY, CIVIL RIGHTS, AND TITLE IX OFFICE	1
	A. Former OIE Structure – Ann Arbor – Compared to ECRT Structure	2
	B. Dearborn	6
	C. Flint.....	6
III.	SEXUAL AND GENDER-BASED MISCONDUCT UMBRELLA POLICY IMPLEMENTATION	6
	A. Language Use When Title IX Coordinator has the Discretion to File a Formal Complaint	6
	B. Process for Investigation and Adjudication of Employee Respondent Matters Involving Allegations of Sex- and Gender-Based Harassment.....	7
	C. Adaptable Resolution for Employee-On-Employee Matters Involving Prohibited Conduct Similar to Student Cases 7	
	D. Process for Support, Investigation, and Adjudication of Allegations of Prohibited Conduct by Staff Members in OIE or OIE’s Supervisory Chain Interim Policy.....	7
	E. Designation of Individuals with Reporting Obligations	7
IV.	REPORTING CHANNELS RECOMMENDATIONS.....	8
V.	PROTECTIONS FROM RETALIATION POLICY.....	9
VI.	SUPERVISOR RELATIONSHIP POLICY RECOMMENDATIONS	9
VII.	EMERITUS REVOCATION.....	10
VIII.	HIRING AND PROMOTIONS	10
IX.	TITLE IX ADVISORY GROUP	10
X.	CULTURE CHANGE PROCESS.....	10
XI.	SUMMARY OF REVIEW	10

I. EXECUTIVE SUMMARY

Pursuant to P.A. 165 of 220, Section 265b, the University of Michigan must certify compliance with among other things, the completion once every three years of a third-party review of its Title IX compliance office and related policies and procedures.

In December of 2020, The University of Michigan (“University”) engaged Guidepost Solutions (“Guidepost”) to assist it with implementing the recommendations of the law firm WilmerHale as set for its report following an independent investigation into allegations of sexual misconduct by then Provost Martin Philbert. The report found that Philbert engaged in inappropriate behavior and WilmerHale presented recommendations to the University to prevent similar situations in the future. As a part of this engagement Guidepost reviewed the University’s then existing Office for Institutional Equity (“OIE”), which was charged with, among other things, investigating allegations of sexual and gender-based misconduct, as well as University policies, procedures and structures that govern the University’s response to sexual and gender-based misconduct. Guidepost conducted meetings with the President, Provost, CFO, General Counsel, Director of the Sexual Assault Prevention and Awareness Center, leadership and members of the Office for Institutional Equity for each campus (including the Title IX Coordinator)¹, and other administrators and offices that intersect with this area, including Michigan Medicine.

As part of its work, Guidepost made a number of recommendations regarding how the University could develop structures and an environment conducive to better preventing, identifying and responding to instances of sexual and gender-based misconduct at the Ann Arbor, Flint, and Dearborn campuses. This report details Guidepost’s work and its collaboration with the University.

II. CREATION OF THE EQUITY, CIVIL RIGHTS, AND TITLE IX OFFICE

During the period of Guidepost’s review, OIE was responsible for investigations of civil rights matters and sexual misconduct, including those covered by the May 2020 Title IX regulations and beyond the regulations as defined by the University in its Policy on Sexual and Gender-Based Misconduct “Policy” or “Sexual Misconduct Policy”. Each campus had a separate and distinct OIE, though the structure and number of positions for each campus was different and reflected the size of the campus.

As a result of its review, Guidepost recommended that the University rename and restructure OIE to explicitly reflect that its work encompasses civil rights issues and Title IX, including sexual misconduct covered under the Title IX regulations and by University Policy.² This recommendation served a variety of purposes that included not only having an office title that is more reflective of all the responsibilities of the office, but also a rebranding and fresh start for the office, a focus on engagement with the campus community, and a focus shifting from one of investigations to leading with care and support. This recommendation was for all campuses.

As a result of these recommendations, and in collaboration with Guidepost, in July of 2020 the University created a new office named the Equity, Civil Rights, and Title IX Office (“ECRT”) that replaced and subsumed OIE. This new office represents a significant allocation of resources towards addressing, responding to, and preventing sexual and gender-based misconduct, inclusive of 14 new full-time positions, including a Director of Prevention, Education, Assistance, and Resources and four direct reports; a Deputy Title IX Coordinator for Michigan Medicine, and a Support Coordinator to better lead and provide care and support to parties through the course of the formal

¹ OIE was subsumed by a new office, ECRT, as more fully explained in this report.

resolution process. The creation of ECRT, and some of the new positions within it, will assist in creating a more comprehensive office that supports not only investigations of gender and sexual based misconduct, but also providing care and support to those who interact with the office. In addition, ECRT provides for additional focus on training and prevention. Set forth below is an explanation of the most significant aspects of the ECRT.

A. Former OIE Structure - Ann Arbor - Compared to ECRT Structure

OIE was comprised of an AVP, two Associate Directors, a Senior Associate Director and Title IX Coordinator, nine (9) investigators, and a new Deputy Title IX Coordinator. The structure of OIE was investigation focused; however, the role of a Title IX Coordinator and campus Title IX compliance includes much more than investigating allegations of sexual misconduct.

The new ECRT adds additional positions to reflect the entirety of the University's responsibilities under Title IX which include effectively tracking patterns and trends to drive prevention efforts, bolstering campus education and prevention work, providing adequate support to parties throughout a harassment matter, and monitoring outcomes.

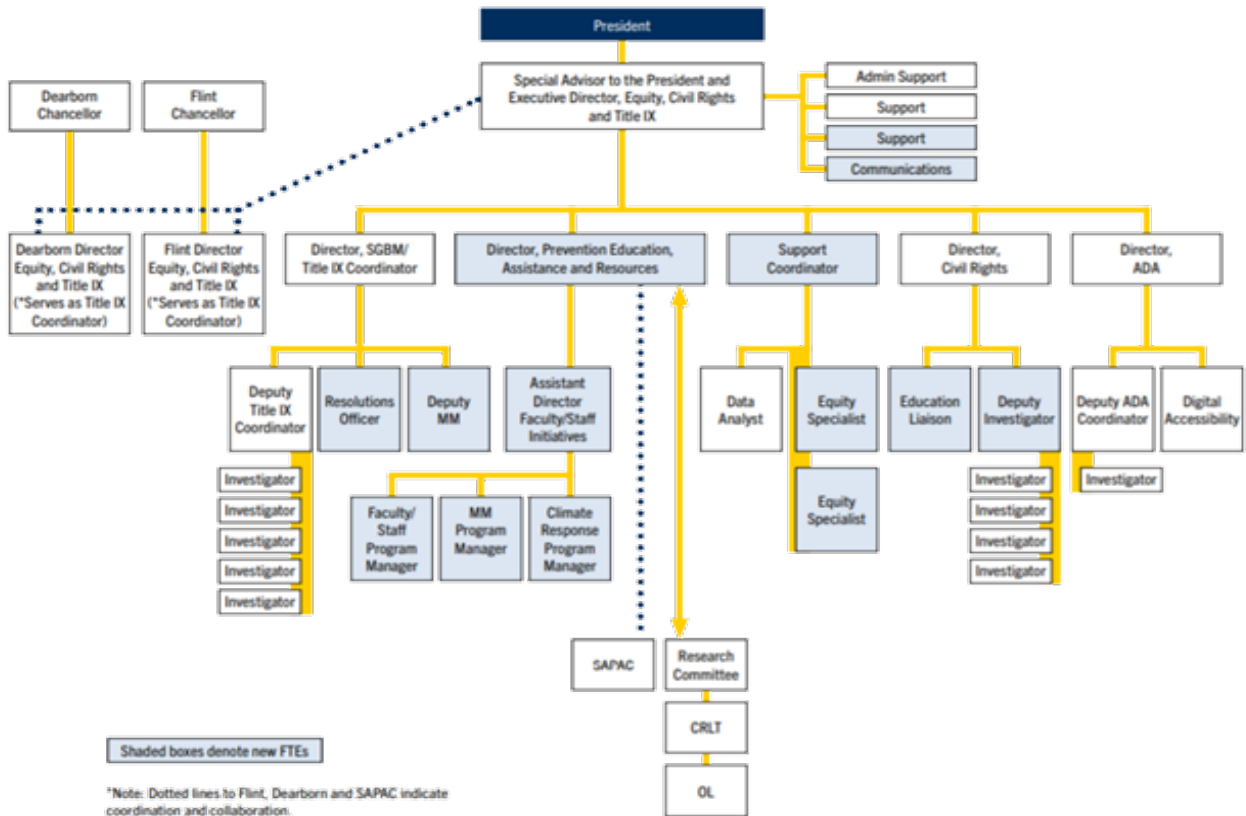
Guidepost initially recommended a structure that included new roles and responsibilities to reflect this work. Specifically, roles for:

- Prevention, Training and Education
- Care and Support
- Resolutions and Outcomes

It also included recommendations to better encompass the unique needs of Michigan Medicine and build out the Civil Rights component of the office.

Guidepost and key stakeholders for the University met numerous times to ensure the recommended structure met the needs of the University.

Through this collaborative effort, the following structure was recommended and adopted:



This structure adds positions to help support a renewed focus on care, support, education and prevention. For example, the equity specialists will help to provide care both apart from and throughout the investigation process, and the resolutions officer will track outcomes and ensure follow-up post-resolution. The addition of a position for communications support will assist with raising awareness regarding the office, including reporting options and the creation of the Prevention, Education, Assistance and Resources unit (“PEAR”) will assist with training and education efforts in collaboration with other University offices such as the Sexual Assault Prevention and Awareness Center (“SAPAC”) and the Center for Research on Learning and Teaching (“CRLT”).

For Ann Arbor, the new office, ECRT, is a multidisciplinary unit that includes the following important changes/additions:

1. ECRT Reports to the President.

In collaboration with Guidepost, the University changed the reporting line of the office to the President to reflect the commitment to the work and allow for more direct access to leadership.

2. Prevention, Education, Assistance and Resources (“PEAR”)

ECRT includes a new department, PEAR, that will work closely with the University’s existing office, SAPAC. SAPAC provides prevention education for students. PEAR provides similar comprehensive education and support for faculty and staff.

PEAR will also be responsible for the following:

- Creating a campus wide liaison program as more fully explained below.
- PEAR will work collaboratively with other entities on campus, such as the Organizational Learning and Center for Research on Learning and Teaching (CRLT) to continue and expand existing work in this area on campus.
- Tracking education, training and prevention efforts for the University to drive prevention.
- Creation and coordination of climate surveys and assessment for individual University units.
- Partnership with University research experts for the creation and evaluation of education and training.

As of the date of this report, the University has filled the PEAR Director position.

3. Support Coordinator and Equity Specialists

ECRT’s focus is moving from one of investigations to leading with care and support. Under OIE, when a report of sexual or gender-based misconduct was received, the investigator was the first point of outreach to the parties. ECRT adds Equity Specialists to initiate the first contact with the reporting party. The Equity Specialists will engage in outreach to the parties, coordinate supportive measures, and serve as a resource from intake to resolution of a matter. Ultimately, this will enable the parties to have someone separate from an investigator to support them through the process.

The Equity Specialists will report to a Support Coordinator (title may vary).

As of the date of this report, the University has filled one of the Equity Specialist positions.

4. Resolutions Officer

In collaboration with Guidepost, it was determined that a Resolutions Officer would be added to the ECRT structure to monitor outcomes. This includes working with unit leaders to ensure appropriate sanctions and follow-ups in employee-respondent matters, assisting units with questions regarding appropriate sanctions, and develop communications and outreach regarding sanctions. This position was filled in October 2021.

5. Michigan Medicine

The ECRT adds a Deputy Title IX Coordinator and Prevention Program Manager for Michigan Medicine. These roles will provide dedicated resources for Michigan Medicine and bolster collaboration with the ECRT. The Deputy Title IX Coordinator began in February 2022.

6. Communications

The ECRT adds a staff member for outreach, engagement, and communications to ensure that stakeholders and the community at large is informed about resources, the annual report, and the work of the ECRT.

7. Civil Rights

OIE previously encompassed civil rights matters. The ECRT expands the civil rights function, to include collaboration for education and prevention work. The civil rights education liaison is a new position that will coordinate and collaborate with PEAR, ODEI and other units already engaging in this work.

8. Title IX Liaisons

In collaboration with Guidepost, the University intends to formally designate and train Title IX Liaisons. These are not full-time positions but rather an employee identified in a division as a dedicated point of contact for information and resources about issues related to sexual and gender-based discrimination and a liaison between that division and the ECRT. Currently, this is happening informally in many of these areas and identification of a position will not be difficult. This program will be housed under PEAR, and Guidepost recommends implementing this recommendation in several steps.

Guidepost additionally recommended that the University designate positions in the following divisions on campus to serve in this role:

- Athletics
- Fraternity and Sorority Life
- Student Life
- Division of Public Safety & Security
- Individual Schools and Colleges

The University may identify additional areas on campus that necessitate a Liaison or determine that certain departments or divisions share a Liaison. With respect to individual schools and colleges, the DEI lead or Director of Human Resources for a school or college may be appropriate. Once positions are identified, the most important aspect of this designation is training the individual on their role.

Once identified and trained, this role will be most effective with proper communication of the designation to the department as well as the campus community. This begins with an overhaul of the Title IX website that will explain the roles and responsibilities of the Deputies within the office, but also provide the contact information for each Liaison/Resource Coordinator and explanation of their role. Guidepost will provide some examples of communication and descriptions for this role going forward.

Finally, once these positions are established and trained, it is important for the Title IX Coordinator and/or a Deputy to maintain a relationship with these roles. This can be accomplished through regular meetings, on-going trainings, involvement in education and prevention efforts where appropriate, etc.

Currently, the University is in the process of implementing this program.

9. Website

The ECRT is currently in the process of revamping and redeveloping its website. Guidepost provided recommendations for modifications to the University's website to ensure clear and user-friendly reporting options for IROs and the campus community. Guidepost also recommends that the website overhaul include specific pages that address the Title IX function and the Civil Rights function.

B. Dearborn

In collaboration with Guidepost, Dearborn adopted and has begun implementing similar changes to Ann Arbor on a smaller scale. Dearborn has implemented the change from OIE to the new ECRT office, with an updated website to reflect the change. Dearborn's Director of ECRT and Title IX Coordinator already reported to the Chancellor, consistent with best practices. Dearborn also added a Deputy Director to the office. Currently, additional resources are being provided to assist with prevention, education and support.

C. Flint

In collaboration with Guidepost, Flint adopted and has begun implementing similar changes to Ann Arbor on a smaller scale. Flint has implemented the change from OIE to the new ECRT office, with an updated website to reflect the change. Flint's Director of ECRT and Title IX Coordinator has changed reporting lines to the Chancellor. Flint also added a Senior Investigator and Deputy Title IX Coordinator to the office. Currently, additional resources are being provided to assist with prevention, education and support.

** The Executive Director of ECRT's Ann Arbor campus will formalize regular coordination and support among the Title IX Coordinators for the Ann Arbor, Flint and Dearborn campuses.*

III. SEXUAL AND GENDER-BASED MISCONDUCT UMBRELLA POLICY IMPLEMENTATION

Guidepost reviewed the University's Interim Sexual and Gender-Based Misconduct Umbrella ("Interim Policy") and provided recommendations to the Policy Task Team ("Policy Task Team") prior to the finalization of the Policy³. In formulating its recommendations, members of the Guidepost team met with the Policy Task Team as well as other interested parties on campus, including Title IX professionals, student affairs professionals, human resource professionals, the Office of General Counsel, the survivor community, and campus subject matter experts. Guidepost's recommendations, rationale therefor, and the University's resolution of those recommendations is set forth below. Notably, the University adopted all of our Policy recommendations except for one.

A. Language Use When Title IX Coordinator has the Discretion to File a Formal Complaint

Guidepost recommended additional language to use within the Policy for when the Title IX Coordinator has the discretion to file a Formal Complaint. This recommendation included language regarding the risk factors considered by the Title IX Coordinator in the analysis.

As a result, in collaboration with Guidepost, ECRT created a form for internal documentation purposes to show that the risk factors have been evaluated and, as a result either (1) the Title IX Coordinator will sign a Formal Complaint; or (2) the Title IX Coordinator will provide only supportive measures in accordance with the Complainant's request not to proceed with Formal Complaint.

³ <https://sexualmisconduct.umich.edu/policy/>

B. Process for Investigation and Adjudication of Employee Respondent Matters Involving Allegations of Sex- and Gender-Based Harassment

The Interim Policy had two separate processes for sex and gender-based misconduct and non-Title IX misconduct in employee respondent matters. The process for non-Title IX misconduct provided for a single investigator model and no right to appeal. Guidepost recommended that the University consider adding a right to appeal and a separate decision-maker than investigator in employee respondent matters. The University added an appeals process for employees who are found to have violated university policy regarding sexual and gender-based misconduct and, since August 14, 2020, appeals have been available for Title IX misconduct. Further, appeals will be decided by an external reviewer.

C. Adaptable Resolution for Employee-On-Employee Matters Involving Prohibited Conduct Similar to Student Cases

The Interim Policy provided for informal resolution in employee-on-employee matters. The informal resolution contemplated was mediation. In contrast, in student-on-student matters, the Interim Policy provided for the ability to engage in adaptable resolution in certain cases. The adaptable resolution practices are rooted in restorative justice and have been used effectively with students.

Guidepost recommended that the University identify and allow for a trial run of adaptable resolution in employee-on-employee cases for lower-level sexual harassment matters over the next 6-9 months, as appropriate. In these instances, the Title IX Coordinator may identify 3-5 cases where it is appropriate to offer adaptable resolution and monitor outcomes in those matters. The Title IX Coordinator can then report back to the Task Team on these outcomes for consideration in future Policy modifications.

To allow for flexibility in assessing the adaptable resolution in specifically identified cases, the University modified the language in its Policy to allow for a broad range of informal resolution options, not only mediation, in employee-on-employee matters. Specifically, the University modified Section IV.A of its Policy to replace the “Mediation” section with “Informal Resolution,” which still references mediation as a type of informal resolution. Thereafter, the University launched a pilot program for the use of adaptable resolution under some circumstances for employees who wish to resolve allegations of misconduct.

D. Process for Support, Investigation, and Adjudication of Allegations of Prohibited Conduct by Staff Members in OIE or OIE’s Supervisory Chain Interim Policy

The Interim Policy provided that reports of prohibited conduct by staff members in OIE or OIE’s supervisory chain on each campus be made to the Executive Vice President and Chief Financial Officer (“CFO”), or their designee. Guidepost recommended adding language to clarify the process in these situations. These modifications were made in the final Policy.

E. Designation of Individuals with Reporting Obligations

Section VII of the Interim Policy provided a definition of IRO that did not designate all University employees who are not Confidential Resources as IROs.

Viewpoints on the designation of IROs are significantly divided. Guidepost solicited various perspectives on this matter to better understand the pros and cons to continue the current policy or to adopt a different IRO designation. Guidepost ultimately recommended that the University designate all full-time employees except those that fall under the category of Confidential Resources as IROs, with limited exceptions to this designation. In making its recommendation, Guidepost noted that legally under the new Title IX regulations, institutions have discretion as to

whom to designate as an IRO outside of the Title IX Coordinator and “officials with the authority to take corrective action.” In summary, the rationale for Guidepost’s recommendation was to create clarity and assist the Title IX Coordinator in assessing patterns and trends.

The Policy Task Team and University ultimately did not fully accept Guidepost’s recommendation regarding IROs in the final Policy; however, the University did make modifications to the IRO designations to address Guidepost’s observations while also taking into consideration the University’s unique needs.

Guidepost provided several implementation strategies regardless of whether the Policy Task Team accepted Guidepost’s recommendation which included even more robust training and clear avenues for reporting to provide for clarity for IROs and the campus community. The University is in the process of implementing these strategies to train on the new IRO designations. These strategies include creating and implementing more robust training to ensure IROs are clear on their obligations and website updates to provide a clear avenue for reporting for IROs and information to assist IROs with their obligations.

IV. REPORTING CHANNELS RECOMMENDATIONS

At the time of Guidepost’s review, the University had online reporting options for allegations of sexual and gender-based misconduct in a significant number of locations. Additionally, the University had online reporting options for numerous other types of issues. The presentation of these online reporting options, and a person’s experience interacting with these various interfaces regardless of the purpose for each one of them, and the consistent communication of protections and transparency about what happens after a person hits submit can play a significant role whether a survivor has trust and confidence to report, and report directly rather than anonymously. Guidepost recommended that the University create a clear, consistent, and compassionate user experience and interface to reports of sexual and gender-based misconduct that communicates what protections are afforded to a reporter and what happens after a person hits submit.

Guidepost also recommended the following regarding on-line reporting:

- The inclusion of protection from retaliation language.
- Clearly articulate what a reporter should expect after reporting.
- Streamline reporting options.

In conjunction with improving the ECRT website, the University is working to emphasize various ways to report sexual and gender-based misconduct. The University has continued to remind and inform people of the various ways to on-line reporting. These reminders include:

- Easier to find contact information for where to report on each of the University’s campuses
- Links to online reporting tools
- Easy-to-find links to confidential resources
- Clearer description of reporting information on the ECRT website

These modifications are on-going.⁴

⁴ <https://sexualmisconduct.umich.edu/reporting-process/>

V. PROTECTIONS FROM RETALIATION POLICY

Guidepost collaborated with the University's on-going efforts to work on a new standalone policy that would strengthen and clarify the University's position against any form of retaliation. The Sexual and Gender-Based Misconduct Policy prohibits retaliation against anyone who reports an incident of prohibited conduct, or who participates in a University process related to such an incident. Other policies have similar protections.

In November of 2021, the University implemented the new Protection from Retaliation Policy.⁵ The implementation of the policy represents the University's on-going commitment to removing barriers to reporting as a result of a fear of retaliation. The policy outlines both confidential and non-confidential resources for seeking guidance for reporting concerns, provides for anonymous reporting options, and outlines response to concerns and reports of wrongful misconduct.

In conjunction with this policy, the University is working to implement anti-retaliation language and references to the policy in its on-line reporting options.

VI. SUPERVISOR RELATIONSHIP POLICY RECOMMENDATIONS

Guidepost plugged into an already ongoing process to review the University's supervisory relationship policy ("Supervisor Relationship Policy"). The Guidepost team interacted with various faculty and staff groups on campus, including SACUA advisory committees (Provost and GC) and the established working group. The University revised the policy in July of 2021.⁶ In summary, the Supervisor Relationship Policy revisions accomplished the following:

- Prohibits a supervisor from initiating or attempting to initiate a relationship with anyone that they supervise.
- Covers employees whose career the supervisor has the ability to influence, even if the employee does not report directly to the supervisor.
- A supervisor who violates the policy could face dismissal.

The Supervisor Relationship Policy is based on three guiding principles:

1. A supervisor may not, implicitly or explicitly, initiate or attempt to initiate an intimate relationship with a supervisee.
2. Recognizing that intimate relationships may develop in the workplace that are not initiated by a supervisor and are free from coercion and abuse of power, immediate disclosure of the relationship by the supervisor is required.
3. Upon disclosure, a management plan must be initiated, implemented and continuously monitored.

In conjunction with the implementation of the policy, the University is developing resources to help employees understand when a relationship exists that must be managed, resources for the development of management plans and who is ultimately responsible for oversight of the management plan.

The new policy is part of the University's commitment to change the culture across all three campuses to one where all members of the University community feel safe and supported.

⁵ <https://spg.umich.edu/policy/601.90>

⁶ <http://spg.umich.edu/policy/201.97>

VII. EMERITUS REVOCATION

During Guidepost's review, the University revised its policy on emeritus status for retiring faculty members to include, for the first time, a process to revoke that status from faculty members for misconduct or other compelling circumstances.

VIII. HIRING AND PROMOTIONS

Guidepost participated in the University's on-going work to continue to enhance the process for how candidates for board-approved appointments and major outside hires are evaluated prior to appointment. Guidepost recommended improved vetting procedures for significant hiring decisions throughout its engagement, and the University is continuing work to implement these changes.

IX. TITLE IX ADVISORY GROUP

The University has established a Title IX Advisory Committee, comprised of students, faculty and staff, to provide perspectives and input on policies, procedures, prevention efforts and other matters related to sexual and gender-based misconduct. The Committee will work closely with the Title IX Coordinator and a Deputy Title IX Coordinator.⁷ The Committee has begun meetings.

X. CULTURE CHANGE PROCESS

In collaboration with Guidepost, the University created a campus wide working group on culture change that will lead an 18-month effort to create an environment of mutual respect and accountability that is free from retaliation, where everyone can feel safe to report misconduct and feel supported through the process. The working group will oversee the development of a University-wide statement of shared values and desired behaviors through a process that will include robust engagement with faculty, staff, students and other stakeholders across all three campuses and Michigan Medicine. This effort is part of the University's work with Guidepost to create a set of unifying, shared values and set a lasting high standard for campus behaviors, systems and practices.

The culture change process is broken up into five phases. The first phase, launched in the Fall of 2021, relates to the Ann Arbor campus and will focus on gathering and analyzing culture and climate data from the community.

The working group reports to the President.

XI. SUMMARY OF REVIEW

The University has undergone significant changes in its policies and internal structures for preventing, identifying, and responding to instances of sexual and gender-based misconduct across all of its campuses. These efforts are on-going and have occurred over a relatively short time period. The pace of these developments reflects the University's commitment to this area.

⁷ <https://record.umich.edu/articles/title-ix-coordinator-advisory-committee/>