

Collected Rules and Regulations

Equal Employment / Educational Opportunity

Chapter 600.050 Equity Resolution Process for Resolving Complaints of Harassment, Sexual Misconduct and other Forms of Discrimination against a Staff Member

A. General

The University will act on any formal or informal complaint or notice of violation of the University's anti-discrimination policies. The procedures described below apply to all such complaints or notice when the Accused is a Staff Member.

B. Jurisdiction

Jurisdiction of the University of Missouri generally shall be limited to conduct which occurs on the University of Missouri premises or at University-sponsored or University-supervised functions. However, the University may take appropriate action, including, but not limited to, the imposition of sanctions under Section 600.050 of the Collected Rules and Regulations against Staff Members for conduct occurring in other settings, including off-campus, (1) in order to protect the physical safety of students, employees, visitors, patients or other members of the University community, (2) if there are effects of the conduct that interfere with or limit any person's ability to participate in or benefit from the University's educational programs, activities or employment or (3) if the conduct occurs when the Staff Member is serving in the role of a University employee.

C. At-Will Employment Status

Nothing contained in this policy is intended and no language contained herein shall be construed as establishing a "just cause" standard for imposing discipline, including but not limited to, termination of employment. Further, nothing contained in this policy is intended and no language contained herein shall be construed to alter in any manner whatsoever the at-will employment status of any at-will University employee.

D. Definitions:

1. **University's Anti-Discrimination Policies.** The University's Anti-Discrimination Policies include the Equal Employment/Education Opportunity Policy located at Section 320.010 of the Collected Rules and Regulations and the Sex Discrimination, Sexual Harassment and Sexual Misconduct in Education/Employment Policy located at Section 600.020 of the Collected Rules and Regulations.
2. **Complainant.** Complainant refers to the alleged victim of discrimination under the University's Anti-Discrimination Policies. The University may also serve as the Complainant when the alleged victim does not wish to participate in the resolution process.
3. **Accused.** The Staff Member or Members alleged to have violated the University's Anti-Discrimination Policies.
4. **Staff Members.** Staff Members include all Administrative, Service and Support Staff, which includes all regular employees, variable hour employees, nonregular employees, per diem employees as defined in Section 320.050.II of the Collected Rules and Regulations, and Subsidiary Employees as defined in Section 320.050.III.
5. **Complaint.** Any verbal or written communication or notice of an alleged violation of the University's Anti-Discrimination Policies.
6. **Advisors.** The individuals selected by the Complainant and the Accused to provide support and guidance throughout the Equity Resolution Process. Each party is allowed one advisor.
7. **Investigators.** Investigators are trained individuals appointed by the Equity Human Resources Officer ("Equity HR Officer") or Equity HR Officer's Designee to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.

8. **Equity Human Resources Officers (“Equity HR Officers”).** The Equity Human Resources Officers (“Equity HR Officers”) are trained human resources and/or equity administrators designated by:
 - a. the Chancellor or Chancellor’s Designee for campus Staff Members;
 - b. the Chancellor or Chancellor’s Designee for MU Health System Staff Members; and
 - c. the President or President’s Designee for System Staff Members.
9. **Supervisor.** The individual or individuals who have authority to terminate the Accused’s employment. If a supervisor has a conflict as determined by the Equity HR Officer, the Equity HR Officer will determine the appropriate manager to act as the Supervisor for purposes of this rule.
10. **Equity Resolution Appellate Officers.** Equity Resolution Appellate Officers are trained, senior-level administrators who hear all appeals stemming from the Equity Resolution Process and are designated by:
 - a. the Chancellor or Chancellor’s Designee for campus Staff Members;
 - b. the Chancellor or Chancellor’s Designee for Health System Staff Members; and
 - c. the President or President’s Designee for System Staff Members.
11. **Summary Resolution.** Resolution of the Complaint upon the determination by the Equity HR Officer or Equity HR Officer’s Designee that no reasonable person could find the Accused responsible for violating the University’s Anti-Discrimination Policies.
12. **Conflict Resolution.** Resolution using alternative dispute resolution mechanisms such as mediation, facilitated dialogue or restorative justice.
13. **Administrative Resolution.** Resolution of a Complaint by the Equity HR Officer and the Accused’s Supervisor.
14. **Parties.** The Complainant and the Accused are collectively referred to as the Parties.

E. Filing a Complaint

Any student, employee, volunteer, visitor or patient who believes that a Staff Member has violated the University’s Anti-Discrimination Policies should contact the Equity HR Officer or Equity HR Officer’s Designee and in the case of allegations of sexual harassment, sexual misconduct or allegations of other forms of sex discrimination as defined in Section 600.020 of the Collected Rules and Regulations, the Title IX Coordinator or Title IX Coordinator’s Designee. Such individuals can also contact campus police if the alleged offense may also constitute a crime.

F. Interim Remedies

During the Equity Resolution Process and prior to a finding whether an alleged violation has occurred, the Equity HR Officer or Equity HR Officer’s Designee or in the case of allegations of sexual harassment, sexual misconduct or allegations of other forms of sex discrimination as defined in Section 600.020 of the Collected Rules and Regulations, the Title IX Coordinator or Title IX Coordinator’s Designee may provide interim remedies including, but not limited to, one or more of the following:

1. Referral and facilitating contact for the Complainant to on- or off-campus counseling, medical services and/or mental health services.
2. Implementing contact limitations on the Accused or on all Parties.
3. Referral of the Complainant to victim advocacy and support services either on and/or off-campus.
4. Adjusting the work schedules, work assignments, supervisory responsibilities, supervisor reporting responsibilities or work arrangements of the Complainant and/or the Accused.
5. If the Complainant is a student:
 - a. Referral of Complainant to academic support services and any other services that may be beneficial to the Complainant.
 - b. Adjusting the courses, assignments, exam schedules, etc. of the Complainant.
 - c. Altering the on-campus housing assignments, dining arrangements, or other campus services for the Complainant.
6. Informing the Complainant of the right to notify law enforcement authorities of the alleged incident and offering to help facilitate such a report.
7. Implementing leave from work with or without pay for the Complainant and/or Accused.

8. Implementing suspension from campus with or without pay for the Accused.

G. Employees and Students Participating in the Equity Resolution Process

All University employees and students must be truthful when making any statement or providing any information or evidence to the University throughout the process, including to the Investigator, the Equity HR Officer (or Equity HR Officer's Designee), the Title IX Coordinator (or Title IX Coordinator's Designee) and/or the Equity Resolution Appellate Officer, and all documentary evidence must be genuine and accurate. False statements, fraudulent evidence or refusal to cooperate with the Investigator, the Equity HR Officer (or Equity HR Officer's Designee), the Title IX Coordinator (or Title IX Coordinator's Designee) and/or the Equity Resolution Appellate Officer by an employee may be the basis for personnel action or by a student may be the basis for student conduct action pursuant to Section 200.010(B)(14) or other provisions of Section 200.010. Nothing in this provision is intended to require a Complainant to participate in the process.

H. Rights of the Complainant in the Equity Resolution Process

1. To be treated with respect by University officials.
2. To be free from retaliation.
3. To have access to campus support resources (such as counseling and mental health services and University health services).
4. To have an Advisor of the Complainant's choice accompany the Complainant to all interviews, meetings and proceedings throughout the Equity Resolution Process.
5. To refuse to have an allegation resolved through the Conflict Resolution process.
6. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
7. To have Complaints heard in substantial accordance with these procedures.
8. When the Complainant is not the reporting party, the Complainant has full rights to participate in any Equity Resolution Process.
9. To be informed in writing of the finding, rationale and sanctions.
10. To report the matter to law enforcement (if applicable) and to have assistance in making that report.
11. To have an opportunity to appeal the findings and sanction.

I. Rights of the Accused in the Equity Resolution Process

1. To be treated with respect by University officials.
2. To have access to campus support resources (such as counseling and mental health services and University health services), unless removed from campus pending the completion of the process.
3. To have an Advisor of the Accused's choice accompany the Accused to all meetings and proceedings throughout the Equity Resolution Process.
4. To refuse to have an allegation resolved through the Conflict Resolution process.
5. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
6. To receive notice of the policies alleged to have been violated.
7. To have Complaints heard in substantial accordance with these procedures.
8. To be informed in writing of the finding, rationale and sanction.
9. To have an opportunity to appeal the findings and sanction.

J. Role of Advisors

Each Complainant and Accused is allowed to have one Advisor of their choice present with them for all Equity Resolution process interviews, meeting and proceedings. The Parties may select whomever they wish to serve as their Advisor, including an attorney. An advisor is not required and any party may elect to proceed without an Advisor.

If Complainant is a student, the student Complainant may request that the Equity HR Officer (or Equity HR Officer's Designee) or Title IX Coordinator (or Title IX Coordinator's Designee) assign a trained Advisor to provide support throughout the Equity Resolution Process. University trained Advisors are administrators or staff at the University trained

on the Equity Resolution Process.

The Advisor may not make a presentation or represent the Complainant or the Accused during any meeting or proceeding. The Parties are expected to ask and respond to question on their own behalf, without representation by their Advisor. The Advisor may consult with the advisee quietly or in writing, or outside the meeting or proceeding during breaks, but may not speak on behalf of the advisee at any point throughout the process. Advisors who do not follow these guidelines will be warned or dismissed from the meeting or proceeding at the discretion of the Investigator(s) during the investigation and the Equity HR Officer or Equity HR Officer's Designee during the Administrative Resolution Process.

K. Investigation

If a Complainant wants to pursue an investigation or if the University wants to pursue an investigation, then the Equity HR Officer or Equity HR Officer's Designee promptly appoints a trained investigator or a team of trained investigators to investigate. Within seven (7) business days after the commencement of the investigation, the Investigator(s) will provide the Parties with written notice that an investigation has commenced, either:

1. In person, or
2. Mailed to the mailing address of the respective party as indicated in the official University records and emailed to the Party's University-issued e-mail account. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person or mailed and e-mailed, notice will be presumptively delivered.

The Parties are allowed to have an Advisor of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings in which they participate. All investigations will be thorough, reliable and impartial. The Investigator(s) will make reasonable efforts to include interviews with the Parties and relevant witnesses, obtain available evidence and identify sources of expert information, if necessary. The Investigator(s) will provide an investigation report to the Equity HR Officer and Supervisor.

Investigation of reported misconduct brought directly by Complainant should be completed expeditiously, normally within thirty (30) business days of notice to the University. Investigation of a Complaint may take longer based on the nature or circumstances of the Complaint, such as lack of cooperation by the Complainant, when initial reports fail to provide direct first-hand information or in complex cases. The University may also undertake a short delay (several days to weeks, to allow evidence collection by the law enforcement agency) when criminal charges on the basis of the same behaviors that invoke the process are being investigated.

L. Summary Resolution

During or upon the completion of the investigation, the Equity HR Officer or Equity HR Officer's Designee will review the investigation, which may include meeting with the investigator(s). Based on that review, the Equity HR Officer or Equity HR Officer's Designee will make a summary determination whether a reasonable person could, based on the evidence gathered, find the Accused responsible for violating the University's Anti-Discrimination Policies.

If the Equity HR Officer or Equity HR Officer's Designee determines that a reasonable person could find the Accused responsible for violating the University's Anti-Discrimination Policies, then the Equity HR Officer or Equity HR Officer's Designee will direct the process to continue. The Complaint will then be resolved through either: Conflict Resolution or Administrative Resolution. There is no right to reconsider or appeal the summary determination to continue the process.

If the Equity HR Officer or Equity HR Officer's Designee determines that no reasonable person could find the Accused responsible for violating the University's Anti-Discrimination Policies, then the process will end and the Complainant and the Accused will be sent written notification of the determination. The Equity HR Officer or Equity HR Officer's Designee may counsel and suggest training opportunities to correct for inappropriate behavior that does not rise to the level of a violation.

The Complainant may request the Equity Resolution Appellate Officer to reconsider the summary determination ending the process. If the Equity Resolution Appellate Officer decides a reasonable person could find the Accused responsible for violating the University's Anti-Discrimination Policies, the Equity Resolution Appellate Officer will reverse the determination ending the process and direct the process to continue. The Complaint will then be resolved through either: Conflict Resolution or Administrative Resolution.

If the Equity Resolution Appellate Officer agrees with the summary determination ending the process by the Equity HR Officer or Equity HR Officer's Designee and that no reasonable person could find the Accused responsible for violating the University's Anti-Discrimination Policies, then the process will end and the Complainant and the Accused will be sent written notification of the determination. This determination to end the process lies in the sole discretion of the Equity Resolution Appellate Officer and such determination is final. Further appeals or grievances are not permitted.

M. Conflict Resolution

The Investigator(s) will determine if Conflict Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to Conflict Resolution. Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Administrative Resolution processes to resolve conflicts. Mediation is never utilized in cases involving allegations of nonconsensual sexual intercourse or nonconsensual sexual contact. It is not necessary to pursue Conflict Resolution prior to pursuing the Administrative Resolution Process and either party can stop the Conflict Resolution process at any time and request the Administrative Resolution Process. In a Conflict Resolution meeting, a neutral, University-assigned facilitator will foster dialogue with the parties to an effective resolution, if possible. The Equity HR Officer or Equity HR Officer's Designee will keep records of any resolution that is reached, and failure to abide by the agreed upon resolution can result in appropriate responsive actions.

N. Administrative Resolution

1. Procedural Details for Administrative Resolution.

For the Administrative Resolution Processes, the following will apply:

- a. The standard of proof will be "preponderance of the evidence," defined as determining whether evidence shows it is more likely than not that a policy violation occurred.
- b. Questioning or evidence about the Complainant's prior sexual conduct is not permitted, though the Investigator, Equity HR Officer (or Equity HR Officer's Designee) or Title IX Coordinator (or Title IX Coordinator's Designee) may grant a limited exception in regards to the sexual history between the parties, if deemed relevant.
- c. Unless deemed relevant by the decision maker, character evidence of either the Complainant or the Accused will not be considered.
- d. Incidents or behavior of the Accused not directly related to the possible violation(s) will not be considered unless they show a pattern of related misconduct. History of related misconduct by the Accused that shows a pattern may be considered, if deemed relevant by the Equity HR Officer or Equity HR Officer's Designee.
- e. The Administrative Resolution Process will normally be completed within sixty (60)

business days from the notice of the Complaint. Deviations from this timeframe will be promptly communicated to both parties.

- f. The Accused and the Complainant may provide a list of questions for the Investigator(s), Equity HR Officer or Equity HR Officer's Designee to ask the other party. If those questions are deemed appropriate and relevant, they may be asked on behalf of the requesting party.
- g. The Equity HR Officer or Equity HR Officer's Designee may, in their discretion, grant reasonable extensions to the timeframes and limits provided.
- h. The Administrative Resolution Process will proceed regardless of whether the Accused chooses to participate in the investigation or the finding.

2. Administrative Resolution: Resolution by the Equity HR Officer and Supervisor

Administrative Resolution by the Equity HR Officer and Supervisor can be pursued for any behavior that falls within the University's Anti-Discrimination Policies.

The Administrative Resolution process consists of

1. A prompt, thorough and impartial investigation by the Investigator;
2. A joint finding by the Equity HR Officer and Supervisor on each of the alleged policy violations; and
3. A joint finding by the Equity HR Officer and Supervisor on sanctions for findings of responsibility.

The Investigator(s) will provide an investigation report to the Equity HR Officer and Supervisor. The Equity HR Officer and Supervisor can, but are not required to, meet with and question the Investigator and any identified witnesses. The Equity HR Officer or Supervisor may request that the Investigator conduct additional interviews and/or gather additional information. The Equity HR Officer and Supervisor will offer to meet with the Complainant and will meet with the Complainant if the Complainant agrees to meet. The Equity HR Officer and Supervisor will meet with the Accused to review the alleged policy violations and the investigation report. The Accused may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If the Accused admits responsibility, in whole or in part, the Equity HR Officer and Supervisor will render a finding that the individual is in violation of University policy for the admitted conduct. For any disputed violations, the Equity HR Officer and Supervisor will render a joint finding utilizing the preponderance of the evidence standard. The Equity HR Officer and Supervisor will also render a finding on appropriate sanctions or remedial actions, if applicable. The findings are subject to appeal.

The Equity HR Officer will inform the Accused and the Complainant of the joint finding on each of the alleged policy violations and the joint finding on sanctions for findings of responsibility, if applicable, within five (5) business days of the findings, without significant time delay between notifications. Notification will be made in writing and will be delivered either:

- a) In person, or
- b) Mailed to the mailing address of the respective party as indicated in official University records and emailed to the party's University-issued email account. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person or mailed and emailed, notice will be presumptively delivered.

O. Sanctions

1. Factors Considered When Finding Sanctions/Remedial Actions

If the Accused is found responsible for a violation of the University's Anti-

Discrimination Polies, the Equity HR Officer and Supervisor will find sanctions and remedial actions. Factors considered when finding a sanction/remedial action may include:

- a) The nature, severity of, and circumstances surrounding the violation.
- b) The disciplinary history of the Accused.
- c) Any other information deemed relevant by the Equity HR Officer and Supervisor.
- d) The need for sanctions/remedial actions to bring an end to the discrimination, harassment and/or retaliation.
- e) The need for sanctions/remedial actions to prevent the future recurrence of discrimination, harassment and/or retaliation.
- f) The need to remedy the effects of the discrimination, harassment and/or retaliation on the Complainant and the University community.

2. Types of Sanctions

The following sanctions may be imposed upon any Staff Member found to have violated a University's Anti-Discrimination Policy. Multiple sanctions may be imposed for any single violation. Sanctions include but are not limited to:

- a) Warning – Verbal or Written
- b) Performance Improvement Plan
- c) Required Counseling
- d) Required Training or Education
- e) Loss of Annual Pay Increase
- f) Loss of Supervisory Responsibility
- g) Demotion
- h) Suspension without Pay
- i) Termination
- j) Recommendation of discipline in a training program, including recommendation of termination, suspension or other corrective or remedial actions

P. Appeal

1. Grounds for Appeal

Both the Complainant and the Accused are allowed to appeal the findings in the Administrative Resolution Process. Appeals are limited to the following:

- a. A procedural error occurred that significantly impacted the outcome of the Administrative Resolution Process (e.g. substantiated bias, material deviation from established procedures, etc.).
- b. To consider new evidence, unavailable during the original Administrative Resolution Process or investigation that could substantially impact the original finding or sanction.
- c. The sanctions fall outside the range typically imposed for this offense, or for the cumulative disciplinary record of the Accused.

2. Requests for Appeal

Both the Complainant and the Accused may submit a request for appeal to the Equity Resolution Appellate Officer. All requests for appeal must be submitted in writing to the Equity Resolution Appellate Officer within three (3) business days of the delivery of the findings. When any party requests an appeal, the other party (parties) will be notified and receive a copy of the request for appeal.

3. Response to Request for Appeal

Within three (3) business days of the delivery of the notice and copy of the request for appeal, the other party (parties) may file a response to the request for appeal. The response can address that sufficient grounds for appeal have not been met and/or the merits of the appeal.

4. Review of the Request to Appeal

The Equity Resolution Appellate Officer will make an initial review of the appeal request(s). The Equity Resolution Appellate Officer will review the request for appeal to determine whether:

- a. The request is timely, and
- b. The appeal is on the basis of any of the three grounds listed above, and
- c. When viewed in the light most favorable to the appealing party, the appeal states grounds that could result in an adjusted finding or sanction.

The Equity Resolution Appellate Officer will reject the request for appeal if all three of the above requirements are not met. The decision to reject the request for appeal is final and further appeals and grievances are not permitted. The Equity Resolution Appellate Officer will normally render a written decision whether the request for appeal is accepted or rejected within seven (7) business days from receipt of the request for appeal.

5. Review of the Appeal

If all three requirements for appeal listed above are met, the Equity Resolution Appellate Officer will accept the request for appeal and proceed with rendering a decision on the appeal applying the following additional principles:

- a. Appeals are not intended to be full re-hearings of the Complaint and are therefore deferential to the original findings. In most cases, appeals are confined to a review of the written documentation and record of the Administrative Resolution Process, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original Equity HR Officer and Supervisor for reconsideration.
- b. Sanctions imposed are implemented immediately unless the Equity Resolution Appellate Officer stays their implementation pending the outcome of the appeal.
- c. The Equity Resolution Appellate Officer will normally render a written decision on the appeal to all parties within seven (7) business days from accepting the request for appeal.
- d. Once an appeal is decided, the outcome is final. Further appeals and grievances are not permitted.

6. Extensions of Time

For good cause, the Equity Resolution Appellate Officer may grant reasonable extensions of time (e.g.: 5-7 business days) to the deadlines in the appeal process.

Q. Records

In implementing this policy, records of all Complaints and resolutions will be kept by the Equity HR Officer or Equity HR Officer's Designee. The "Record of the Case in the Section 600.050 Process" will include, if applicable, letters of notice, exhibits, the findings of the Equity HR Officer and Supervisor and the decision on appeal. The Record of the Case in the Section 600.050 Process will be kept for a minimum of seven (7) years following final resolution.

R. Amendments

The President of the University is authorized to amend this Board Rule by Executive Order on or before February 6, 2017.