

HR

Procedure

University of Central Missouri Procedure

Procedure Name: Discrimination and Harassment Procedures for Reporting and Investigating Complaints	Date Approved: Revised and approved by the President on February 22, 2016.
Procedure Category: Workplace/Employee Relations	Date Effective:
Policy Authority: Board of Governors Policy 1.2.150 (/consumer-information/nondiscrimination-and-equal-opportunity-statement/index.php)	Date Last Revised:
Approval Authority: University President	Review Cycle:
Responsible Department: University President	

Definitions

Equity Administrator(s): The Associate Vice President of Human Resources or designate.

University Representative: 1) The Complainant's or reporting individual's appropriate supervisor, director, department head, department chair, dean, university director or

vice president. 2) The campus advocate for students is an additional University Representative available to students.

Note: Individuals reporting an incident of discrimination or harassment may choose to report to a University Representative above the level of his or her immediate superior if the immediate superior is the person being complained about or if the individual otherwise believes a conflict of interest is created by reporting the incident to his or her immediate University Representative.

Complainant: A person who brings a complaint alleging that another person has engaged in discriminatory conduct.

Respondent: A person who is alleged to have engaged in discriminatory conduct that is the subject of a discrimination complaint.

Investigator: The person designated by the Equity Administrator responsible for gathering facts and data related to the case.

Discrimination: Any unfair treatment based on age, race, color, ethnicity, religion, sex, national origin, sexual orientation, marital status, veteran status, handicap/disability or genetic information as it relates to employment, education or public accommodation.

Retaliation: Taking adverse action, including but not limited to firing, demoting, harassing, lowering a grade or otherwise “retaliating” against a person because he or she filed a complaint of discrimination, because he or she complained about discrimination or because he or she participated in a discrimination proceeding (such as an investigation or lawsuit).

Aspects of employment or education that may be adversely affected by discrimination, include, but are not limited to:

- hiring and firing;
- compensation, assignment, or classification of employees or students;
- transfer, promotion, layoff or recall;
- recruitment;
- testing;
- use of university facilities;
- training and apprenticeship programs;
- fringe benefits;
- pay, retirement plans and disability leave;

- access to courses, advising, and mentoring;
- grades;
- scholarship, assistantships and tuition waivers;
- participation in intercollegiate and intramural sports;
- other terms and conditions of employment; or
- other terms and conditions of admission to or full enjoyment of university programs.

Harassment: Unwelcome verbal, nonverbal or physical conduct based on age, race, color, ethnicity, religion, sex, national origin, sexual orientation, marital status, veteran status, handicap/disability or genetic information that has the purpose or effect of creating a hostile campus environment. Harassment may include, but is not limited to:

- offensive jokes;
- slurs;
- epithets;
- name calling;
- physical assaults or threats;
- offensive touching;
- offensive objects or pictures; or
- graffiti.

Harassment can occur in a variety of circumstances, including, but not limited to:

- the harasser can be the victim's supervisor, a supervisor in another area, an agent of UCM, a co-worker, non-employee, faculty member or student;
- the victim does not have to be the person harassed, but can be anyone affected by the offensive conduct; or
- unlawful harassment may occur without economic injury to, or discharge of, the victim.

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, verbal, nonverbal or physical conduct of a sexual nature, or non-sexual conduct that is based on the victim's sex when:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment or student status;
- submission or rejection of such conduct is used as a basis for evaluation in making personnel or academic decisions affecting that individual;
- such conduct has the purpose or effect of unreasonably interfering with an individual's performance as an administrator, faculty member, staff member or

student; or

- such conduct creates an intimidating, hostile or offensive environment.

Consistent with the First Amendment to the U. S. Constitution and similar state laws, speech will not be deemed to constitute prohibited harassment or sexual harassment merely because a person disagrees with it or finds it to be subjectively offensive.

Business Days: Business Days are those days on which university offices are officially open for business and classes are in session.

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Reporting Methods

If a student, faculty member, staff member or visitor believes that he or she has been discriminated against based on age, race, color, ethnicity, religion, sex, national origin, sexual orientation, marital status, veteran status, disability/handicap or genetic information or harassed; or if he or she has witnessed such discrimination or harassment, that person should promptly report it using one or both of the following methods:

I. Informal Procedure

A. Any student, faculty member, staff member or visitor is encouraged to discuss the matter with the appropriate University Representative as defined above and/or with the Equity Administrator.

1. If the appropriate University Representative is the person being complained about or if the Complainant feels that the appropriate University Representative has a potential conflict of interest or bias in the matter, he or she should contact the immediate supervisor of the University Representative and/or the Equity Administrator.

2. University employees who are not in a supervisory position but become aware of or have discrimination or harassment reported to them must contact the Equity Administrator as soon as practicable.

B. The University Representative who receives the complaint shall record the

reported information using the UCM Discrimination/Harassment Complaint Form (/offices/general-counsel/university-policy-library/procedures/discrimination-and-harassment-procedures-for-reporting-and-investigating-complaints/discrimination-harassment-complaint-form.pdf) . The University Representative shall submit the UCM Discrimination/Harassment Complaint Form to the Equity Administrator no more than one (1) Business Day after receiving the complaint.

C. The University Representative will identify the nature of the conduct reported, the persons involved, the alleged facts reported and a suggested/requested solution.

1. Such solutions could include, but are not limited to:

- reassigning the Complainant to a different course, instructor, work assignment or supervisor;
- voluntary counseling or training for the Respondent; or
- a voluntary apology by the Respondent.

2. The Equity Administrator shall attempt to arrive at an informal resolution and shall be guided by the concern for fairness to all parties involved.

D. Response by the Equity Administrator to the Complainant will be written and will include the proposed resolution and the time frame for implementation of any needed action. The entire process should be completed within ten (10) Business Days of receipt of the complaint. If it is not possible to complete the process within ten (10) Business Days, during that time period, an explanation for the delay will be communicated to appropriate parties.

E. To the extent possible, complaints, information gathered during the informal process and the Equity Administrator's written response shall remain CONFIDENTIAL. The informal report should be discussed only among the University Representative receiving the report, the Equity Administrator and others on a need-to-know basis as determined by the director of human resources.

F. If the informal resolution requires communication with the Respondent or if the identity of the Complainant must be revealed to the Respondent, the Equity Administrator shall provide a warning to the Respondent that federal and state law and UCM policy prohibits Retaliation against persons who have filed complaints or persons who participate in the complaint process.

G. If the Complainant is not satisfied with the proposed resolution, Complainant may initiate the Formal Procedure as indicated below.

II. Formal Procedure

Complainants are encouraged to attempt the Informal Procedure outlined above prior to initiating the Formal Procedure, but are not required to do so. The Formal Procedure shall be pursued as follows:

A. If the Complainant initiates the formal complaint procedure, he or she should submit a complaint in writing, signed and dated, to the Equity Administrator as soon as possible after the alleged conduct or after the attempt to use the Informal Procedure proves to be unsatisfactory. The written complaint should contain the date of the event, the general nature of the event, the words or conduct involved, the name(s) of the Respondent(s), the names of any witnesses, and a description of any similar incidents involving the same parties in the past. The Equity Administrator shall maintain forms for the purpose of making such complaints, but use of a particular form is not required.

B. The Equity Administrator shall notify the Respondent that a complaint has been filed and provide a warning to the Respondent that federal and state law and UCM policy prohibits Retaliation against persons who have filed complaints or whom he or she believes to have filed complaints, or who have participated in an investigation, even if those complaints are ultimately proven to be false.

C. The Equity Administrator will investigate or designate an Investigator.

D. The Respondent shall provide the Investigator a written statement responding to the allegations within five (5) Business Days of receiving notification of the specifics of the complaint. The written statement may be supplemented as necessary at any time during the investigation. The Investigator may interview the Complainant, the Respondent and any other persons believed to have relevant information about the alleged conduct or similar conduct by the Respondent. Both the Complainant and the Respondent are encouraged to bring all relevant evidence and potential witnesses to the attention of the Investigator.

E. The Investigator will prepare a written report, making relevant findings of

fact, within fifteen (15) Business Days of receiving the complaint. Additional time may be taken for extenuating circumstances such as the unavailability of a key witness. The Investigator will provide the report to the Respondent's vice president or university director.

F. The vice president or university director will review the report and confer with the Equity Administrator. The vice president or university director will render a determination. The vice president or university director will convey this determination in writing to the Complainant and to the Respondent, with copies to the Equity Administrator.

G. The Complainant and/or the Respondent may appeal the decision of the vice president or university director by taking the following action: 1. The Complainant or the Respondent may appeal the decision by directing a letter of appeal to the university president within five (5) Business Days of receiving the vice president's or university director's decision. 2. If no appeal is made, the vice president or university director will notify all parties that the complaint is closed.

H. If the matter is appealed to the university president he or she will review the report and may confer with the vice president or university director and Equity Administrator.

1. If the university president concurs with the decision of the vice president or university director, his or her decision will be final. The university president will affirm the vice president's or university director's determination in writing to the Complainant, the Respondent, the vice president or university director and the Equity Administrator as soon as possible.

2. If the university president does not concur with the decision of the vice president or university director he or she may:

a. Reverse the determination of the vice president or university director and convey his or her decision in writing to the Complainant, the Respondent, the vice president or university director and the Equity Administrator as soon as possible and the complaint is closed; or

b. Send the matter back to the vice president or university director with instructions. The university president's decision will be conveyed in writing to the Complainant, the Respondent, the vice president or university director and the Equity Administrator as soon as reasonably possible.

III. Timelines

Timelines are provided within this document as guidelines. If the Investigator and/or Equity Administrator need more time to complete necessary tasks at any stage in the procedure, they will communicate to both parties as appropriate.

IV. Respondent

No Retaliation No person who initiates either an informal report or a formal complaint, honestly and in good faith, shall be punished or otherwise retaliated against for initiating such procedures even if such report and/or complaint is determined to be invalid or unsubstantiated. Similarly, witnesses and other individuals who participate, honestly and in good faith, in the investigation with regard to such complaints, shall not be punished or otherwise retaliated against. Retaliation is a separate and independent violation of university policy and will be reported and handled in the same manner as incidents of discrimination and harassment.

V. False Complaints

Any complaints of discrimination, including harassment, that the Complainant knew to be false, may result in corrective or disciplinary action taken against the Complainant.
