

University of Missouri-Kansas City

2016-2017 Equal Opportunity Report

August 1, 2016 – July 31, 2017

Office of Affirmative Action



OFFICE OF AFFIRMATIVE ACTION

January 12, 2018

Dear Members of the University of Missouri-Kansas City Community:

The Office of Affirmative Action invites you to review its annual Equal Opportunity Report. The Report describes protected class discrimination reported to the Office of Affirmative Action from August 1, 2016 to July 31, 2017. The Report does not include complaints of sex, gender, gender identity, gender expression, and sexual orientation discrimination as those complaints are described in the annual [Title IX Report](#). This Report helps establish baseline information that the University can use in future years to begin to identify trends. We have an opportunity and an obligation to use this information to improve campus culture and reduce discrimination.

For several years, our office has worked closely with many departments and offices on campus to prevent discrimination in all of its forms. The Office of Affirmative Action has responded to allegations of discrimination through educational panels, presentations, disciplinary proceedings and conflict resolution. We have provided numerous students and employees with the resources, support and accommodations they need to be successful at UMKC.

This Report is intended to provide you with data and contextual information regarding the number of reports received by the Office of Affirmative Action and the process by which reports are resolved. As you read the Report, please be aware that we have an obligation to balance transparency with our commitment to respecting the privacy of those involved as well as our duty to keep confidential information that is protected by the Family Education Rights and Privacy Act (FERPA).¹

If you have any feedback regarding the Report, please email me at thompsonmikah@umkc.edu. If you would like to make a report of discrimination, learn more about campus and community resources, or if you are in need of accommodations, please call the Office of Affirmative Action at (816) 235-6910.

Thank you for your interest in the University's Equal Opportunity work and your commitment to creating a more equitable, safe and inclusive UMKC.

¹ See 20 U.S.C. § 1232g and 34 CFR Part 99 (a federal law that protects the privacy of student education records).

Sincerely,

A handwritten signature in blue ink, reading "Mikah K. Thompson". The signature is written in a cursive style with a long horizontal flourish at the end.

Mikah K. Thompson

Director of Affirmative Action and Title IX Coordinator

Types of Reports

This Report presents information concerning alleged discrimination based on race, color, national origin, ancestry, age, genetic information, protected veteran status, religion, or disability and retaliation that was reported to the Office of Affirmative Action (“OAA”) and the actions taken by the OAA in response. Information concerning alleged discrimination based on sex, gender expression, gender identity, or sexual orientation discrimination is contained in the [Title IX Report](http://info.umkc.edu/title9/), which is available on UMKC’s Title IX website (<http://info.umkc.edu/title9/>). This document includes descriptions of all reports brought forward between August 1, 2016 and July 31, 2017 (Reporting Period).

Information regarding the reports of discrimination received by the OAA are communicated in both statistical and narrative formats. Some reports alleged multiple types of discrimination in a single incident and some reports alleged general discrimination that was not based on a protected class.

This Report presents information about the **sixty-four (64)** reports of alleged discrimination or retaliation. The OAA received **fifty-seven (57)** reports of discrimination from persons affiliated with the University and **seven (7)** notices of investigation from external agencies during the Reporting Period.² Of the complaints that were investigated by an external agency (Missouri Commission on Human Rights [MCHR] or Equal Employment Opportunity Commission [EEOC]), **three (3)** individuals reportedly experienced more than one type of discrimination. Additionally, **two (2)** individuals reported more than one incident of discrimination to the OAA or an outside agency. Thus, **sixty-two (62)** individuals reported experiencing **seventy-seven (77)** incidents of discrimination based on a protected class.

Please read the Report carefully and take time to click on hyperlinks to key definitions, which will provide you with detailed descriptions of terms used by the OAA. These terms are critical to understanding the Report:

- **Complainant** – the alleged victim of the University’s anti-discrimination policies
- **Respondent** – the person who allegedly violated the University’s anti-discrimination policies (sometimes called the “Accused”)
- **Report** – information received by the OAA stating that an individual has or may have experienced discrimination or retaliation
- **Policy violation** – the classification of a report into a specific behavior prohibited by the University’s anti-discrimination policies

Additionally, please read the footnotes within the Report as they contain helpful contextual information. While intended to be descriptive, this Report has limitations, such as the inability to convey the complexity of each incident that has been shared with the OAA. We recognize that many incidents that impact our students, faculty and staff are not reported.

² The OAA received **three (3)** reports that alleged gender discrimination in conjunction with discrimination based on another protected class. These reports are accounted for in the University’s EEO report.

I. How Does the OAA Receive Reports of Alleged Discrimination?

Self Reports

A number of people, including students, come to the OAA seeking resources on their own. Equal Opportunity investigators will connect them to resources, explain their rights and options, and can help them decide the next steps. Students, employees, volunteers and visitors of the University who have experienced any form of discrimination are encouraged to report any incident promptly to the OAA. While everyone is encouraged to make a report, victims of discrimination are not required to share the incident with the OAA.

Third party Reports

A number of incidents are reported by people who have witnessed discrimination directly or received reports of discrimination. After the OAA receives such a report, an Equal Opportunity investigator contacts the alleged victim. The alleged victim has the right not to respond to the OAA. If the alleged victim does respond to the investigator, he or she will connect the alleged victim to resources, explain their rights and options, and can help them decide the next steps.

Internal vs. External Reports

Incidents reported to the OAA by students, faculty, or staff members are referred to as internal reports. Incidents reported to the OAA by agencies, such as MCHR or EEOC, are referred to as external reports.

II. What is Retaliation?

Retaliation is any adverse action taken against a person because of that person's participation in a protected activity. **The University strictly prohibits retaliation against any person for making any good faith report or for filing, testifying, assisting or participating in any investigation or proceeding involving allegations of discrimination in violation of the University's Equal Employment/Education Opportunity Policy.** Individuals who retaliate will be subject to discipline.

III. False Reporting

University policy prohibits false reporting. False reporting is a serious offense and students or employees who make false reports of discrimination or retaliation will be subject to disciplinary action ranging from probation up to and including expulsion or termination. A false report is a report made in bad faith that is intentionally false.

A determination that a report of discrimination is false can be made only if the evidence establishes that the report was intentionally false and no act of discrimination was either committed or attempted. The OAA can only make a determination that a report of discrimination or retaliation is false after conducting a thorough investigation. Erroneous reports made in good faith are not considered false reports.

Failure to find that a policy violation occurred does not mean the complaint was false. In other words, simply because the University finds that an individual is not responsible for an alleged policy violation does not mean that the underlying complaint was false. The determination that a report is false must be supported by evidence that discrimination did not occur.

The OAA did not receive any allegations of false reporting during the Reporting Period.

IV. What Happens After the OAA Receives a Report?

After receiving a report of alleged discrimination or retaliation, a staff member in the OAA will contact the Complainant (or alleged victim) by phone or email to inquire about the individual's safety, inform them of their rights, and connect the individual with campus and community resources.

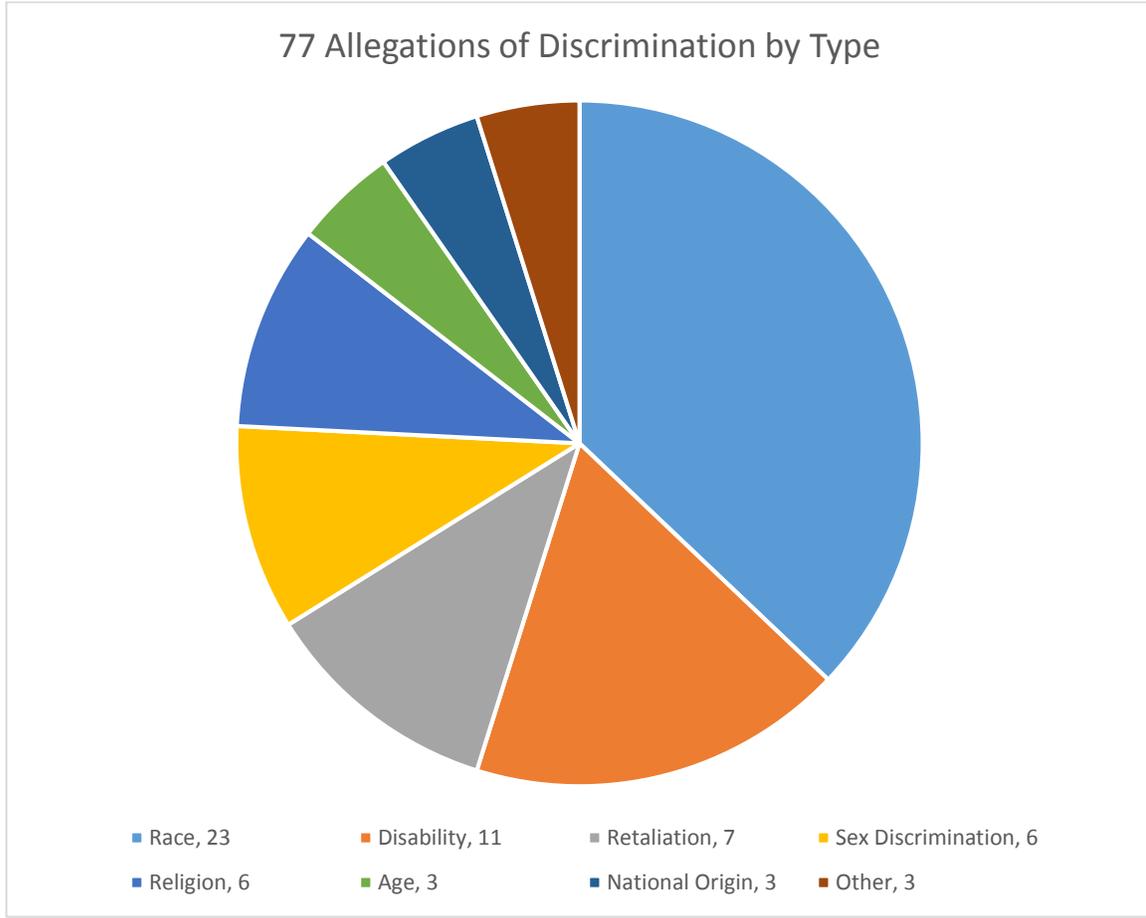
It is the Complainant's right to file a formal complaint with the OAA and pursue an investigation and disciplinary action against the Respondent. Complaints against students, faculty or staff of the University of Missouri-Kansas City are resolved using the Equity Resolution Process.

V. What is Discrimination?

The OAA does not conduct criminal investigations and this Report does not classify criminal behavior. Rather, the OAA investigates and responds to reports of potential violations of the University's prohibition on discrimination on the basis of **race, color, national origin, ancestry, age, genetic information, protected veteran status, religion, or disability and retaliation.**

This policy also prohibits discrimination based on **sex, sexual orientation, gender identity and gender expression**; reports of discrimination based on these characteristics are discussed in the [Title IX Report](#).

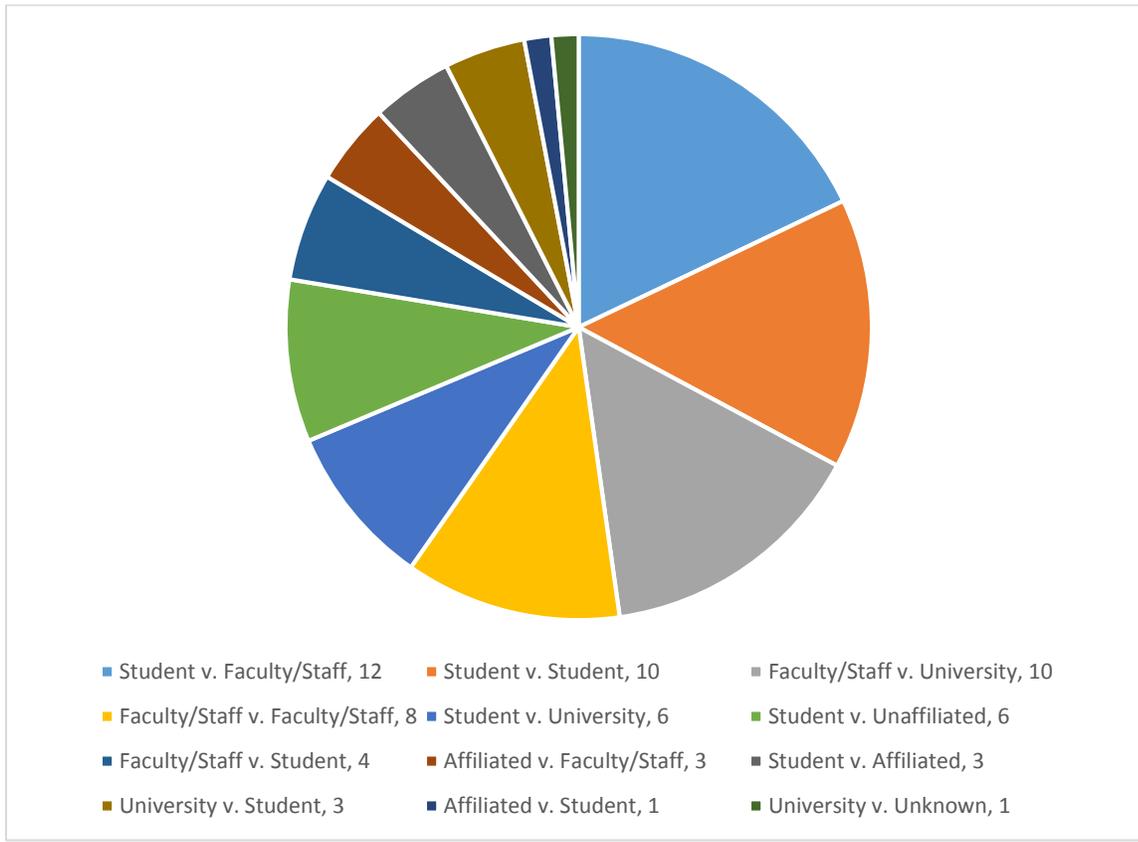
VI. Reports of Potential Discrimination



Racial discrimination was the most common allegation with **twenty-three (23)** incidents reported. There were **eleven (11)** allegations of discrimination based on disability; **seven (7)** reports of retaliation; **six (6)** reports of discrimination based on sex;³ **six (6)** reports of discrimination based on religion; **three (3)** reports each of discrimination based on age and national origin; and **three (3)** reports of discrimination that did not fit any category.

³ Most reports of sex discrimination are counted in the University's Title IX Report. Each of the **six (6)** reports of sex discrimination counted in this report alleged discrimination based on multiple protected classes. **Three (3)** of these complaints were filed by University employees through external agencies. **Three (3)** similar complaints were filed through the Office of Affirmative Action, and are also counted in this report.

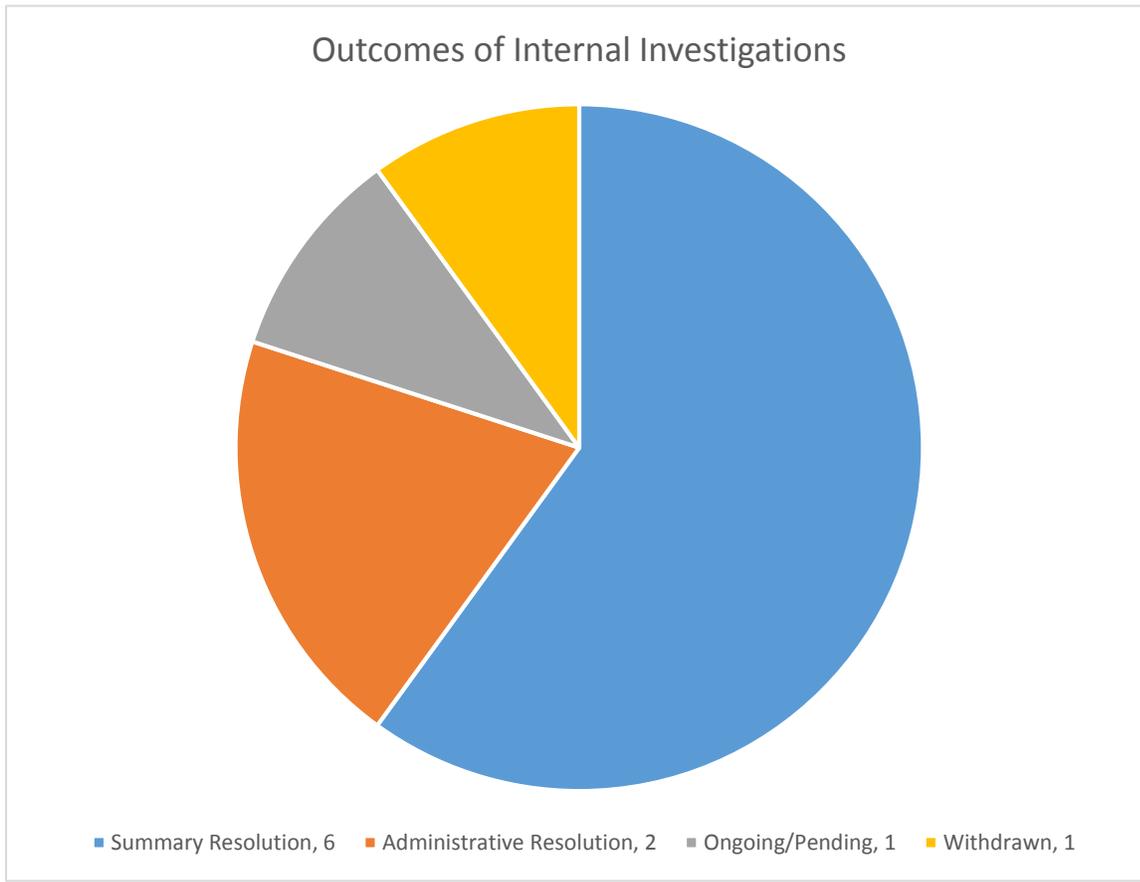
VII. University Affiliation of the Complainant and Respondent



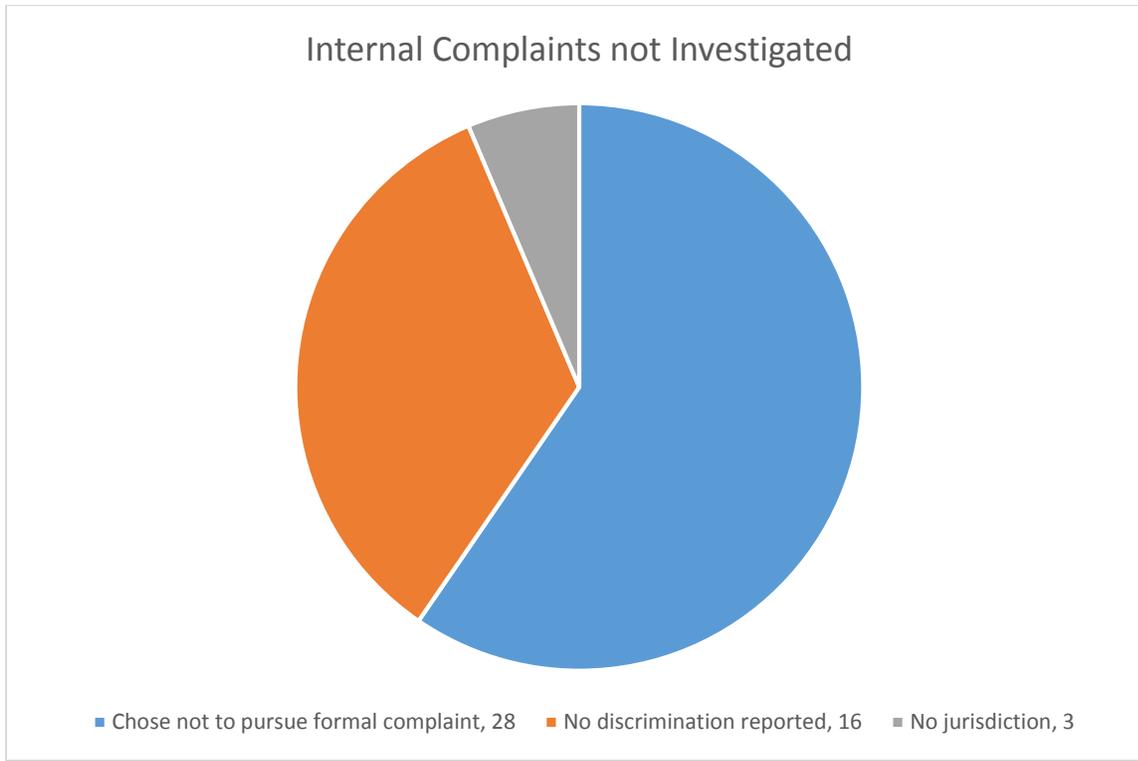
The OAA kept record of how Complainants and Respondents named in each report were affiliated with the University. This graph shows the University affiliation of the Complainants and Respondents on a case-by-case basis.⁴ Students were Complainants in **thirty-nine (39)** reports and were named as Respondents in **seventeen (17)** reports. University employees were Complainants in **twenty-two (22)** reports and were named as Respondents in **twenty-six (26)** reports. Complainants named the University of Missouri-Kansas City or a University division as the Respondent in **sixteen (16)** reports. “Affiliated” indicates that a Complainant or Respondent has a relationship with the University, such as a volunteer or vendor, but is not a student or employee of the University. There were **four (4)** affiliated Complainants and **three (3)** affiliated Respondents. Unaffiliated indicates that the Complainant or Respondent was not affiliated with the University in any way. There were **zero (0)** unaffiliated Complainants and **six (6)** unaffiliated Respondents. Finally, there were **three (3)** reports where the University served as the Complainant and **one (1)** report where the Respondent was unknown.

⁴ Occasionally, reports were filed jointly by more than one Complainant, reports named more than one Respondent, or an individual filed more than one report with the OAA. This graph explains the University affiliation of the parties involved in each report; thus, **sixty-six (66)** Complainants and **sixty-nine (69)** Respondents are accounted for in this graph.

VIII. Investigations



Of the **fifty-seven (57)** internal reports of discrimination that were made to OAA, **ten (10)** were investigated, and **forty-seven (47)** were resolved in another way. Of the ten investigated complaints, **six (6)** were resolved via Summary Resolution; **two (2)** were resolved via Administrative Resolution; **one (1)** was withdrawn by the Complainant; and **one (1)** investigation was ongoing at the end of the Reporting Period.



Forty-seven (47) complaints were not investigated formally. **Twenty-eight (28)** were not investigated because the Complainant chose not to make a formal complaint. **Sixteen (16)** reports were not investigated because the issues reported were found not to be discrimination based on a protected class during the initial intake. The OAA did not have jurisdiction to investigate **three (3)** complaints. Several complaints that were not investigated formally were resolved to the satisfaction of both parties after a University administrator had a conversation with the Respondent about the impact of his or her behavior.

○ **Formal Complaints**

After information is reported to the OAA, the alleged victim must decide whether s/he wishes to move forward with a formal complaint pursuant to the University’s Equity Resolution Process. A complaint provides the University with notice of a violation of the University’s anti-discrimination policies, and officially requests the University to conduct an investigation into an alleged violation of university policy.

Formal complaints may contain the following elements:

- A statement of the alleged policy violation;
- Name of the accused faculty, staff member or organization;
- Date of the alleged policy violation occurred;
- Request for a specific resolution process (informal, formal or conflict resolution); and
- A list of witnesses.

There is no requirement that an alleged victim pursue a formal complaint. However, the University reserves the right to pursue a complaint even when an alleged victim chooses not to initiate an investigation or participate in the Equity Resolution Process.⁵ As a result, the OAA may elect to pursue an investigation when a Complainant has not filed a complaint or requested an investigation. In these circumstances, the OAA deliberates thoroughly prior to initiating an investigation and will only do so when an investigation is necessary to:

- Protect the University community or others; and
- Provide a safe and non-discriminatory environment for all students.

Even if an investigation is not pursued, the OAA endeavors to take steps to limit the effects of the alleged discrimination and prevent its recurrence, such as training and education.

When the OAA receives a formal complaint, or the OAA elects to pursue an investigation, one or two Equal Opportunity investigators are promptly assigned to conduct an impartial investigation. During the Reporting Period, the Office received **ten (10)** formal complaints. The OAA did not proceed with an investigation and resolution without an individual filing a formal complaint.

○ **Preliminary Investigation and Investigation**

Upon receipt of a report, an Equal Opportunity Investigator conducts a preliminary investigation to gather enough information to refer the matter to an appropriate resolution process, provide interim remedies as needed, address any concerns regarding confidentiality, and assess any requests that an investigation not be pursued. If a Complainant or the University wishes to pursue further investigation, then such investigation will continue until all relevant information is obtained.

Equal Opportunity investigators are committed to conducting thorough, reliable and impartial investigations, which include relevant physical and electronic evidence, as well as detailed interviews with relevant parties and witnesses. The parties are allowed to have an advisor of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings, and each party has an equal opportunity to present a list of potential witnesses and evidence.

Investigations of reported misconduct are typically completed within 30 business days of notice to the OAA, though investigations may take longer in complex cases. Additionally, in cases where criminal charges are being pursued, the University may undertake a short delay in its investigation. When an allegation of discrimination is reported to the Director of Affirmative Action that also alleges violation of the Standard of Conduct (200.010), the investigators also will investigate and resolve the related conduct violations. For example, if the Director receives a report of discrimination on the basis of religion and vandalism, and the vandalism is related to the allegation of discrimination, then the Office will investigate the related vandalism. As of July 31, 2017, there was one ongoing equity investigation.

⁵ See Chapter 600.030.C.2 of the University of Missouri Collected Rules and Regulations.

○ **Summary Resolution**

After the Equal Opportunity investigators complete an investigation, the Director of OAA reviews the investigation and may meet with the investigators for clarification regarding information gathered during the investigation.

Next, the Director of OAA makes a decision on whether, based on the evidence gathered, the complaint should move to the resolution phase. The Director of OAA will direct the complaint to move to the resolution phase if a **reasonable person** could, based on the evidence gathered, find the accused individual responsible for violating University policy. The Director of OAA will use the **preponderance of the evidence standard**, which means that the Director determines that it is more likely than not that a reasonable person could find the Respondent responsible (culpable) for violating University policy. If the Director of OAA determines that the complaint should move to the resolution phase, the complaint will be resolved through one of three processes: conflict resolution, informal/administrative resolution, or formal/hearing panel resolution.

On six occasions during the Reporting Period, the Director of Affirmative Action determined that, after evaluating the respective investigation, a complaint should not move forward to the resolution phase. It should be noted that five of these Summary Resolutions involved complaints by faculty members or staff members against other faculty or staff members. The Director of Affirmative Action issued a Summary Resolution in one case involving a student complaint. On all six occasions, the Complainant still received accommodations from the OAA and was referred to on-campus resources and services.

○ **Conflict Resolution**

This method of resolution is often used for less serious, yet inappropriate behaviors. Complaints may be resolved using the conflict resolution process if the parties agree. The conflict resolution process consists of alternative dispute resolution mechanisms, such as mediation, facilitated dialogue or restorative justice. Conflict resolution will only be utilized if the Director of OAA determines that conflict resolution is appropriate. In making a determination of appropriateness, the Director considers:

- The willingness of the parties;
- The nature of the conduct at issue;
- The susceptibility of the conduct to conflict resolution;
- That conflict resolution is typically not the primary resolution mechanism used to address complaints of violent behavior of any kind, or in other cases of serious violations of policy.

Sanctions and appeals are not possible as a result of a conflict resolution process, though the parties may agree to appropriate remedies. The OAA keeps records of any resolution that is reached, and failure to abide by the resolution can result in appropriate responsive actions, which could be disciplinary actions or agreed upon sanctions.

It is not necessary to pursue conflict resolution prior to pursuing either informal or formal

resolution, and either party can stop the conflict resolution process at any time and request either the informal or the formal resolution process. **The Director of OAA utilized Conflict Resolution one time during the Reporting Period.**

IX. Outcomes of Informal/Administrative and Formal/Hearing Panel Resolutions

From August 1, 2016, through July 31, 2017, two complaints of discrimination were resolved using the University's Informal/Administrative or Formal/Hearing Panel resolution processes. These processes are described in greater detail below and in the policy describing the [Equity Resolution Process](#) for complaints against students. The University has separate Equity Resolution Policies for [faculty](#) and [staff](#) members.

○ **Informal Resolution⁶**

The informal resolution process is used to resolve cases where the Respondent is a student. The informal resolution process can be used only if both the Complainant and Respondent agree to this form of resolution. In the informal process, the Director of Affirmative Action will make a decision of responsibility after reviewing the entire investigation, reading a written investigative report, and reviewing exhibits prepared by the OAA investigators. The investigative report summarizes statements made by witnesses and evidence collected through an impartial investigation.

If, during the informal process, one of the parties requests the formal process (which utilizes a hearing panel), the complaint will be resolved using the formal process. After the Director of Affirmative Action makes a determination of responsibility, the parties are promptly informed of the decision. **No complaints were resolved by Informal Resolution in the period from August 1, 2016 to July 31, 2017.**

○ **Administrative Resolution**

The administrative resolution process is very similar to the informal resolution process, but it is used to resolve cases in which the Respondent is a faculty or staff member.

The administrative process for staff members requires that the Director of Affirmative Action and the Respondent's direct supervisor make a decision of responsibility after reviewing the entire investigation, reading a written investigative report, and reviewing exhibits prepared by the OAA investigators. The investigative report summarizes statements made by witnesses and evidence collected through an impartial investigation. Staff members do not have the option of pursuing a formal or hearing panel resolution process as an alternative to the administrative resolution process.

For complaints in which a faculty member is the Respondent, the parties may agree to the administrative resolution process. The administrative process for faculty members requires that

⁶ Note that the Equity Resolution Process was amended during the Reporting Period to change the term "Informal Resolution" to "Administrative Resolution". See CRR 600.030.

the Director of Affirmative Action make a decision of responsibility after reviewing the entire investigation, reading a written investigative report, and reviewing exhibits prepared by the OAA investigators. The investigative report summarizes statements made by witnesses and evidence collected through an impartial investigation. If, during the administrative resolution process, one of the parties requests the formal/hearing panel process, the complaint will be resolved using the formal/hearing panel process. Although the Director of Affirmative Action will make the decision regarding responsibility and recommend sanctions during the administrative resolution process, the Provost makes the final decision regarding sanctions.

The Director of Affirmative Action issued two (2) Administrative Resolutions during the Reporting Period.

○ **Formal/Hearing Panel Resolution**

In the formal/hearing panel resolution process, an Equity Resolution Hearing Panel (composed of three trained faculty and/or staff members) will conduct a formal hearing on campus. During the hearing, the OAA investigators assigned to the case will serve as the main witnesses, presenting a report of the investigation to the panel. Both the Complainant and Respondent may serve as witnesses and/or call additional witnesses at the discretion of the Hearing Panel chair. The chair may ask questions of any witnesses and each party.

Complainants and Respondents may direct questions to each other through the chair. Both the Complainant and Respondent may have an advisor present with them during the hearing. If a Complainant or Respondent does not wish to attend the hearing in person, he or she can request alternative arrangements such as attendance by videoconference.

After the hearing, the Hearing panelists will make a finding of responsibility for each charged policy violation and prepare a written report detailing their findings, how each member voted, and the information cited by the Panel in support of its determination. For complaints filed against students, the hearing panelists also issue sanctions against students found responsible for policy violations. For complaints filed against faculty members, the hearing panelists recommend sanctions to the Provost, and the Provost makes the final decision regarding sanctions. The formal resolution process was not utilized during the Reporting Period.

○ **Appeals**

Both parties are allowed to appeal the decision of the Equity Resolution Panel and the Director of Affirmative Action, but only for the following reasons:

1. A procedural error that significantly impacted the outcome of the formal resolution, such as substantiated bias or material deviation from the established procedure;
2. To consider new evidence, unavailable during the original hearing that could substantially impact the original finding or sanction; or
3. The sanctions fall outside the range typically imposed:
 - For the offense (as determined by the appellate officer), or

- For the cumulative conduct record of the accused.

All requests for appeal must be in writing and submitted to the appellate officer within three business days of the delivery of a written finding.

The appellate officer for the Student as Accused process is Vice Chancellor for Student Affairs and Enrollment Management Mel Tyler. The appellate officer for the Staff as Accused process is Vice Chancellor for Human Resources Carol Hintz. The appellate officer the Faculty as Accused Process is Vice Chancellor for Research and Economic Development Lawrence Dreyfus, and the alternate appellate officer for the Faculty as Accused process is Ellen Suni, Dean Emerita and Professor at the UMKC School of Law.

During the Reporting Period, the appellate officers did not overturn any findings of responsibility made by the Director of Affirmative Action.

If found responsible, Respondents are sanctioned by expulsion from the University or other discretionary sanctions. No students were expelled as a final result of the Equity Resolution Process. **Two (2)** Respondents were found responsible following an investigation and issued disciplinary sanctions during the Reporting Period.

X. Conclusion

More Than Investigations – Training, Recruitment & Retention

We hope that this information is helpful to the UMKC Community in understanding the work of the Office of Affirmative Action. During investigations and throughout the adjudication of matters, we make every effort to provide a fair process for everyone. The dispositions of the investigations undertaken during the Reporting Period reflect these efforts.

While conducting investigations is an important responsibility of the OAA, training and education are essential to preventing discrimination. During the Reporting Period, the OAA partnered with Human Resources and the Division of Diversity and Inclusion to educate and train our students and employees on topics related to diversity and inclusion. During the Reporting Period, 86 percent of UMKC employees completed an online training course for employees entitled *Building a Foundation: Discrimination Prevention and Title IX*.

Other training opportunities during the Reporting Period included the following:

- Human Resources offered over 40 courses including *Supervisory Foundations, Interview & Selection, Appraisals, Legal & Effective Discipline, FMLA, Embracing Multiple Generations, Difficult Conversations, Emotional Intelligence, FMLA*, and much more.
- MyLearn, the university's learning management system, provided employee access to thousands of books, simulations, courses and resources.
- LGBTQIA Services & Programs offered *Safe Space Training*.

- Multicultural Student Affairs offered workshops and activities on various topics, including *Creating Cultural Advocates*, *Social Justice*, *Breaking Down Barriers*, *Multicultural Education* and *MSA Leadership Training*.

The OAA continued its efforts to recruit employees from under-represented groups, including women, minorities, individuals with disabilities, and veterans. During the Reporting Period, the OAA certified candidate pools for all faculty and staff positions only after concluding that they were sufficiently diverse. The OAA also assisted academic units in drafting minority recruitment plans for all ranked faculty positions. These plans list the publications where the job announcement will be placed and typically require the search committee members to send the announcement to personal contacts in an effort to diversify the candidate pool. The Office also prepared its annual Affirmative Action Plans for Minorities, Females, Individuals with Disabilities, and Veterans. These Plans are available on the [Affirmative Action website](#). Finally, the OAA partnered with Human Resources to overhaul the University's search committee training, which must be completed by the members of all faculty and staff search committees. The new search committee training includes an hour-long session on diversifying the academy and combating implicit bias. The new search committee training was launched in the Fall of 2016 and has been completed by more than 317 participants.

Through our investigations, training, education, recruitment and retention efforts, the OAA strives to help make UMKC a safer, more inclusive community. We encourage you to invite the OAA to meet with your organization, class, department or division to learn more about the work we do.