

600.010 Equal Employment/Educational Opportunity and Nondiscrimination Policy

Bd. Min. 2-19-71; Reaffirmed Bd. Min. 10-14-77; Amended Bd. Min. 5-23-80; Amended Bd. Min. 10-15-82; Amended Bd. Min. 10-16-03; Amended Bd. Min. 6-19-14; Revised 9-22-14 by Executive Order 41. Revised 2-5-15; Revised 2-9-17 with effective date of 3-1-17; Revised 7-28-20 with effective date of 8-14-20.

A. Equal Employment/Educational Opportunity Policy and Statement of Nondiscrimination. The Curators of the University of Missouri does hereby reaffirm and state the policy of the University of Missouri on Equal Employment/Educational Opportunity and Nondiscrimination.

1. Equal Opportunity is and shall be provided for all employees and applicants for employment on the basis of their demonstrated ability and competence without unlawful discrimination on the basis of their race, color, national origin, ancestry, religion, sex, pregnancy, sexual orientation, gender identity, gender expression, age, disability, protected veteran status, or any other status protected by applicable state or federal law. This policy shall not be interpreted in such a manner as to violate the legal rights of religious organizations or the recruiting rights of military organizations associated with the Armed Forces or the Department of Homeland Security of the United States of America.
2. Equal Opportunity is and shall be provided for all students and applicants for admission without unlawful discrimination on the basis of their race, color, national origin, ancestry, religion, sex, pregnancy, sexual orientation, gender identity, gender expression, age, disability, protected veteran status, or any other status protected by applicable state or federal law. This policy shall not be interpreted in such a manner as to violate the legal rights of religious organizations or the recruiting rights of military organizations associated with the Armed Forces or the Department of Homeland Security of the United States of America.
3. The University of Missouri does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, pregnancy, sexual orientation, gender identity, gender expression, age, disability, protected veteran status, and any other status protected by applicable state or federal law. As used in this policy, the word "sex" is also inclusive of the term "gender."

The University's Nondiscrimination policies apply to any phase of its employment process, any phase of its admission or financial aid programs, other aspects of its educational programs or activities, and instances occurring in other settings, including off-campus, 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. Notices of Nondiscrimination are posted online and in physical locations for the UM System and each of the Universities in the System.

The President of the University shall establish affirmative action procedures to implement this policy.

B. Definition of Discrimination and Harassment. For purposes of determining whether a particular course of conduct constitutes prohibited discrimination or harassment under this policy, the following definitions will be used:

1. **Discrimination or Harassment.** Conduct that is based upon an individual's race, color, national origin, ancestry, religion, sexual orientation, age, disability, protected veteran status, including sex discrimination as defined below, or any other status protected by applicable state or federal law that:
 - a. Adversely affects a term or condition of employment, education, living environment or participation in a University activity; or
 - b. Creates a hostile environment by being sufficiently severe or pervasive and objectively offensive that it interferes with, limits, or denies the ability to participate in or benefit from the University's educational programs, activities, or employment; or
2. **Sex Discrimination.** Sex discrimination is conduct that is based upon an individual's sex, pregnancy, gender identity, or gender expression that adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University education program or activity. Sex discrimination under this policy includes the following:
 - a. Sexual Harassment, as defined in CRR 600.020, is governed exclusively by CRR 600.020 and CRR 600.030. All other forms of sex-based discrimination are governed by this policy, including sex-based harassment that does not rise to the level of Sexual Harassment as defined in CRR 600.020, and conduct that meets the substantive definition of Sexual Harassment as defined in CRR 600.020 that occurs outside the University's education programs, activities, or employment, or occurs outside the United States, but nonetheless has an effect that interferes with or limits any person's ability to participate in or benefit from the University's education programs, activities or employment;
 - b. Workplace sexual harassment: Conduct that creates a hostile environment by being sufficiently severe or pervasive and objectively offensive that it interferes with, limits or denies the ability to participate in or benefit from the University's education programs, activities or employment;
 - c. Sex discrimination that does not involve conduct of a sexual nature.
3. **Consent to Sexual Activity.** Consent to sexual activity is knowing and voluntary. Consent to sexual activity requires of all involved persons a conscious and voluntary agreement to engage in sexual activity. Each person engaged in the sexual activity must have met the legal age of consent. It is the responsibility of each person to ensure they have the consent of all others engaged in the sexual activity. Consent must be obtained at the time of the specific activity and can be withdrawn at any time. Consent, lack of consent, or withdrawal of consent may be communicated by words or non-verbal acts.

Someone who is incapacitated cannot consent. Silence or absence of resistance does not establish consent. The existence of a dating relationship or past sexual relations between the Parties involved should never by itself be assumed to be an

indicator of consent. Further, consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion and force, or threat of either, invalidates consent.

4. **Incapacitated or incapacitation.** A state in which rational decision-making or the ability to consent is rendered impossible because of a person's temporary or permanent physical or mental impairment, including but not limited to physical or mental impairment resulting from drugs or alcohol, disability, sleep, unconsciousness or illness. Consent does not exist when the Respondent knew or should have known of the other individual's incapacitation. Incapacitation is determined based on the totality of the circumstances. Incapacitation is more than intoxication but intoxication can cause incapacitation.

Factors to consider in determining incapacity include, but are not limited to, the following:

- a. Lack of awareness of circumstances or surroundings (e.g., an inability to understand, either temporarily or permanently, the who, what, where, how and/or why of the circumstances; blackout state)
 - b. Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
 - c. Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
 - d. Physical symptoms (e.g., vomiting or incontinence)
- C. **Equity Officers.** Duties and responsibilities of the University's Equity Officers include monitoring and oversight of overall implementation and compliance with the University's Equal Employment/Educational Opportunity and Nondiscrimination Policy, including coordination of training, education, communications and coordination with the equity resolution processes for faculty, staff, students and other members of the University community and investigation of complaints of discrimination, harassment, and retaliation.

Any person having inquiries concerning this policy should contact their respective UM System or University Equity Officer. The following individuals serve as Equity Officers and are designated to handle inquiries regarding the Anti-Discrimination policies and to serve as the coordinators for purposes of compliance with those policies:

University of Missouri System and University of Missouri-Columbia

Andrea Hayes, J.D.

Equity Officer

Address:

University of Missouri

202 Jesse Hall
Columbia, MO 65211
Telephone: (573) 882-2824
Email: hayesas@missouri.edu
civilrights.missouri.edu

University of Missouri-Kansas City

Dr. Sybil Wyatt
Equity Officer
Address:
Administrative Center
5115 Oak Street, Room 212
Kansas City, MO 64112
Telephone: 816-235-6910
Email: wyattsb@umkc.edu
www.umkc.edu/titleix

Missouri University of Science and Technology

Neil A. Outar, J.D.
Equity Officer
Address:
203 Centennial Hall

300 W 12th St.

Rolla, MO 65409
Telephone: 573-341-6038
Email: naoutar@mst.edu
titleix.mst.edu

University of Missouri-St. Louis

Dana Beteet Daniels
Equity Officer
Address:
One University Boulevard
220 Woods Hall
St. Louis, MO 63121
Telephone: 314-516-4538
Email: dana@umsl.edu
www.umsl.edu/title-ix

University of Missouri Health System

Jason Miller, MBA, SHRM-SCP
Equity Officer
Address:
One Hospital Drive
Columbia, MO 65212
Telephone: 573-882-8187

Email: millerjaw@health.missouri.edu

NOTE: All references to “Equity Officer” throughout this policy refer to the Equity Officer or the Equity Officer’s designee.

If the Complaint involves the University’s Equity Officer, reports may be made to the System Equity Officer. If the Complaint involves the System Equity Officer, reports may be made to the System President. The contact information for the System President is:

Office of the President
321 University Hall
Columbia, MO 65211
Telephone: (573) 882-2011
Email: umpresident@umsystem.edu

NOTE: The above-listed contact information for Equity Officers may be updated as needed and without requiring the approval of the Board of Curators.

D. Equity Resolution Processes. The University is committed to preventing and eliminating impermissible discrimination and harassment in its educational programs, activities and employment. To that end, the University maintains policies regarding reporting, investigation, and resolution of complaints of discrimination or harassment. Specifically, please see:

1. Section 600.040 – Equity Resolution Process for Resolving Complaints of Discrimination and Harassment Against a Faculty Member or Student or Student Organization
2. Section 600.050 – Equity Resolution Process for Resolving Complaints of Discrimination and Harassment Against a Staff Member or the University of Missouri

E. Reporting Discrimination or Harassment

1. **Students, Employees, Volunteers, and Visitors.** Students, employees, volunteers, and visitors of the University who have experienced any form of discrimination or harassment are encouraged to report the incident promptly to the appropriate Equity Officer listed in Section 600.010.C above. In addition, students, volunteers, and visitors of the University who have witnessed such conduct are encouraged to report the incident promptly to the appropriate Equity Officer. The University will respond to all such reports pursuant to one of its Title IX or Equity Resolution Processes (see Sections 600.030, 600.040, 600.050).
2. **Mandated Reporters.** Any employee of the University, except as noted below, who becomes aware of discrimination or harassment as defined in this policy is a Mandated Reporter, regardless of whether the recipient of the behavior is a student, employee, volunteer, or visitor of the University.

3. **Employees with a Legal Obligation or Privilege of Confidentiality.** Employees with a legal obligation or privilege of confidentiality (including health care providers, counselors, lawyers, and their associated staff) are not considered Mandated Reporters and are not required to report when the information is learned in the course of a confidential communication. This also means that the employee seeking the exemption is employed by the University for that specific purpose and was acting in that capacity when the confidential disclosure was made. If the information is not learned in the course of confidential communication (for example, behavior is observed in class) then the employee has the same obligation as a Mandated Reporter.
4. **Designated Confidential Employees.** Consistent with the law and upon approval from the Office of the General Counsel, a University may also designate non-professional counselors or advocates as confidential for purposes of this policy and, therefore, excluded from the definition of Mandated Reporters.
5. **Required Reporting.** A Mandated Reporter is required to promptly report the information to the appropriate Equity Officer. A mandated report must be made regardless of whether the person reporting the information to the Mandated Reporter requests confidentiality and regardless of how the Mandated Reporter becomes aware of the offensive behavior (personal observation, direct information from the subject of the behavior, indirect information from a third party, etc.). If the Complainant requests confidentiality or that a report not be pursued, the Mandated Reporter should warn the Complainant that, at this stage in the process, the Mandated Reporter must report all known information to the Equity Officer.
6. **Content of Mandated Report to Equity Officer.** Mandated Reporters must report all details that they possess. This includes names of the Parties, if known, and all other information in the Mandated Reporter's possession.
7. **Non-compliance.** Failure to comply with this policy can result in disciplinary action under applicable University policies. Employees also are cautioned that non-compliance with this policy may increase their risk of personal liability. Further, an individual who fails to report as required under this policy may be determined to be ineligible for defense or protection under Section 490.010 of the University's Collected Rules and Regulations for any associated claims, causes of action, liabilities or damages.

F. Retaliation, False Reporting, and Witness Intimidation or Harassment.

1. Retaliation is any adverse action taken against a person because of that person's participation in protected activity. The phrase "participation in a protected activity" includes refusal to participate in proceedings involving sex discrimination under CRRs 600.040 and 600.050. Any person who engages in such retaliation shall be subject to disciplinary action, up to and including expulsion or termination, in accordance with applicable procedures. Any person who believes they have been subjected to retaliation is encouraged to notify the Equity Officer. The University will promptly respond to all claims of retaliation in accordance with this policy.

Examples of prohibited retaliation include, but are not limited to, giving a lesser grade than the student's academic work warrants because the student filed a report or Complaint of discrimination or harassment; giving lower than justified performance appraisals because a person was a witness in an investigation of alleged discrimination or harassment; and threatening to spread false information about a person for filing a report or Complaint of discrimination or harassment.

2. False reporting is making an intentional false report or accusation in relation to this policy as opposed to a report or accusation, which, even if erroneous, is made in good faith.
3. The University prohibits attempted or actual intimidation or harassment of any potential Party or witness. No individual participating in an investigation relating to a report or Complaint that a violation of this policy has occurred should, directly or through others, take any action which may interfere with the investigation.
4. For situations involving alleged retaliation, false reporting, and witness intimidation or harassment, the Equity Officer will refer the matter to the appropriate University process.

G. U.S. Department of Education – Office for Civil Rights. Inquiries concerning discrimination in educational opportunities also may be referred to the United States Department of Education's Office of Civil Rights. For further information on notice of nondiscrimination and for the address and phone number of the U.S. Department of Education office which serves your area call 1-800-421-3481.

The State of Missouri Regional Office for Civil Rights is located in Kansas City and is available to provide assistance.

Office for Civil Rights
U.S. Department of Education
One Petticoat Lane
1010 Walnut, 3rd Floor, Suite 320
Kansas City, MO 64106
Telephone: (816) 268-0550
FAX: (816) 268-0559
TDD: (800) 877-8339
Email: OCR.KansasCity@ed.gov