

## **600.050 Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against a Staff Member or the University of Missouri**

Bd. Min. 2-5-15; Amended 2-9-17 with effective date of 3-1-17; Amended 7-28-20 with an effective date of 8-14-20.

- A. **General.** The University will promptly and appropriately respond to any report of violation of the University's Anti-Discrimination Policies. The procedures described below apply to such reports when the Respondent is a Staff Member, or when the Respondent is not an individual actor but rather the University of Missouri, one of the Universities within the University of Missouri System, or one of its or their educational programs, departments, or other institutional entities, except as noted herein. Further, when the report involves allegations against the President or a Chancellor, upon consultation between the Office of the General Counsel and the System Equity Officer, the investigation may be conducted by an outside investigator.

This procedure does not govern complaints alleging discriminatory denial of coverage under any University health plan, which complaints shall be processed pursuant to the University's applicable grievance process. Further, this procedure does not apply to complaints alleging conduct that would be defined as sexual harassment under Section 600.020 of the Collected Rules and Regulations.

- 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, and visitors 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.

The University may further take appropriate action, including, but not limited to, the imposition of remedial actions under Section 600.050 of the Collected Rules and Regulations for conduct occurring in other settings, including off-campus, (1) in order to protect the physical safety of students, employees, or visitors 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 staff or faculty members are serving in the role of University employees.

If a Complainant alleges or the investigation suggests that a discrimination or harassment policy violation as defined in Section 600.010 of the Collected Rules and Regulations occurred in concert with an alleged violation of the University's Title IX policies, the University shall have the authority to investigate and take appropriate action regarding the alleged violation(s) of the discrimination or harassment policy pursuant to University's Title IX process. If the allegation(s) in the Complaint that fall under the Title IX policy are dismissed, the University may discontinue the process under the Title IX policy and then proceed under this Equity Resolution Process for any remaining reports of alleged violation(s) of Section 600.010 in the Complaint.

Further, if a Complainant simultaneously alleges or the investigation suggests that violations of the University's Anti-Discrimination Policies and disagreements arising from working relationships, working conditions, employment practices, or differences of interpretation of a policy, the University shall have the authority to investigate and take appropriate action regarding each of the Complainant's allegations pursuant to this Equity Resolution Process. In conducting such investigations, the Equity HR Officer or Equity Officer, and/or the Investigator may consult with and/or seek guidance from Human Resources staff or appropriate administrators as necessary.

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. **Administrative Resolution.** The equity resolution process of a Complaint by making a finding on each of the alleged policy violations and finding on sanctions without a hearing.
2. **Complainant.** "Complainant" refers to the person alleged to have been subjected to discrimination or harassment in violation of the University's Anti-Discrimination Policies. The University may serve as the Complainant when the person alleged to have been subjected to discrimination or harassment in violation of the University's Anti-Discrimination Policies chooses not to act as the Complainant in the resolution process or requests that the Complaint not be pursued. If the University decides to pursue a claim of discrimination by a visitor, third party or applicant through the applicable Equity Resolution Process, the University will act as the Complainant. Former University Faculty or Staff members may act as the Complainant in the applicable Equity Resolution Process only when their employment is terminated and they allege that the termination of employment was discriminatory. For any other allegations of discrimination by former University Faculty or Staff members, the University will investigate and appropriately respond

to reports of a violation of the University's Anti-Discrimination Policies and if the University decides to pursue a claim of discrimination through the applicable equity resolution process, the University will act as the Complainant.

3. **Complaint.** A document prepared by the Equity Officer when a verbal or written report of alleged discrimination or harassment becomes known to the University, or a document filed and signed by a Complainant alleging discrimination or harassment against a Respondent and requesting that the University investigate the allegation.
4. **Conflict Resolution.** A voluntary resolution process using alternative dispute resolution mechanisms such as mediation, facilitated dialogue, or restorative justice.
5. **Designated Administrator.** Designated Administrators are administrators selected by the System Chief Diversity Officer to assist in the Administrative Resolution process.
6. **Equity Human Resources Officer ("Equity HR Officer").** The Equity Human Resources Officers ("Equity HR Officer") are trained human resources and/or equity administrators designated by either the Chancellor (or Designee) for University Staff Members and MU Health Staff Members or the President (or Designee) for System Staff Members to receive and assist with the investigation and resolution of reports or Complaints regarding violation of the University's Anti-Discrimination Policies.
7. **Equity Officer.** The Equity Officer is a trained administrator designated by the Chancellor (or Designee) to receive and assist with the investigation and resolution of Complaints regarding violation of the University's Anti-Discrimination Policies. All references to "Equity Officer" throughout this policy refer to the Equity Officer, or the Equity Officer's designee.
8. **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 either the Chancellor (or Designee) for University Staff Members or Health System Staff Members Respondents, or the President (or Designee) for System Staff Members or University Respondents.
9. **Equity Support Person.** The individuals selected by a Party to provide support and guidance throughout the Equity Resolution Process. Each Party is allowed one Equity Support Person.
10. **Investigators.** Investigators are trained individuals appointed by the Equity Officer to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.
11. **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.
12. **Record of the Case.** The Record of the Case in the Section 600.050 Process includes, when applicable: Letter(s) of Notice, investigative report and exhibits; the finding on each of the alleged policy violations and sanctions by the decision-

- maker and the decision on appeal, including the request for appeal, any additional evidence submitted for appeal, and written arguments of the parties, if applicable.
13. **Report.** Any verbal or written communication or notice of an alleged violation of the University's Anti-Discrimination Policies.
  14. **Respondent.** "Respondent" refers to the staff member or members alleged to have violated the University's Anti-Discrimination Policies, or the University of Missouri, one of the Universities within the University of Missouri System, or one of its or their academic programs, departments, or other institutional entities, depending on the nature of the report. If the University of Missouri is the Respondent, the Equity Officer will designate the Respondent representative, consistent with the below guidelines:
    - a. For institutional complaints involving recruitment and admissions, the Respondent shall normally be represented by the Director of Admissions.
    - b. For institutional complaints involving treatment in educational programs, the Respondent shall normally be represented by the appropriate department head.
    - c. For institutional complaints involving nonacademic matters related to campus living and student life, the Respondent shall normally be represented by the appropriate administrative supervisor, department head, and/or director.
    - d. For institutional complaints arising out of employment, the Respondent shall normally be represented by the supervisor, department head, or director of the employing unit.
    - e. For institutional complaints relating to financial aid decisions, the Respondent shall normally be the Director of Student Financial Aid where the application for financial aid was originally filed or the award originally made.
  15. **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. When academic administrators are acting in their administrative, at-will role, Complaints against them will be processed pursuant to this Equity Resolution Process.
  16. **Summary Resolution.** Resolution of the Complaint upon the determination by the Equity Officer that there is an insufficient basis to proceed with the Complaint that the Respondent violated the University's Anti-Discrimination Policies.
  17. **Supervisor.** The individual or individuals who have authority to terminate the Respondent's employment. If a supervisor has a conflict as determined by the Equity Officer, the Equity HR Officer will determine the appropriate manager to act as the Supervisor for purposes of this rule.
  18. **University's Anti-Discrimination Policies.** The University's Anti-Discrimination Policies include the Equal Employment/Education Opportunity and nondiscrimination Policy located at Section 600.010 of the Collected Rules and Regulations.

E. **Making a Report.** Any person (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute discrimination or harassment) may report discrimination or harassment to the Equity Officer. A report may be made in person, or at any time (including during non-business hours) by mail, by telephone, or by electronic mail, using the contact information listed for the Equity Officer, by an online portal set up by the University for this purpose, or by any other means that results in the Equity Officer receiving the person's verbal or written report. Individuals may also contact campus police if the alleged offense may also constitute a crime. In order to foster reporting and participation, the University may provide amnesty to Parties and witnesses accused of minor student conduct violations ancillary to the incident.

F. **Preliminary Contact and Inquiry.** Upon receiving a report, the Equity Officer shall promptly contact the Complainant to discuss the availability of supportive measures as defined herein, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of availability of supportive measures with or without the filing of a Complaint, and explain to the Complainant the process for filing a Complaint. If the identity of the Complainant is unknown, the Equity Officer may conduct a limited investigation sufficient to identify to Complainant to the extent possible.

In addition to making preliminary contact, the Equity Officer shall conduct a preliminary inquiry to gather enough information to make a threshold decision regarding whether the report describes a possible violation of the University's anti-discrimination policies.

If the report describes a possible violation, the Equity Officer will refer the matter to the appropriate procedural process and provide appropriate supportive measures. If the report does not describe a possible violation, the matter will be referred to the appropriate non-Equity process. Under those circumstances, the Equity Officer may counsel and suggest monitoring or training opportunities to correct for inappropriate behavior that does not rise to the level of a violation.

The preliminary inquiry shall be conducted promptly (typically within 7-10 business days) of receiving the report).

G. **Filing a Complaint.**

A Complaint is a document prepared by the Equity Officer after a verbal or written report of alleged discrimination or harassment becomes known to the University, or a document filed and signed by a Complainant alleging discrimination or harassment against a Respondent and requesting that the University investigate the allegation. As used herein, the phrase "document filed and signed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the complainant's

physical or digital signature, or otherwise indicates that the Complainant is the person filing the Complaint.

All Complaints alleging discrimination or harassment under this policy will be investigated. The University may serve as the Complainant when the person alleged to have been subjected to discrimination or harassment in violation of the University's Anti-Discrimination policies chooses not to act as the Complainant in the resolution process or requests that the Complaint not be pursued. If the University decides to pursue a report of discrimination by a visitor, third party or applicant through the applicable equity resolution process, the University will act as the Complainant. Where the Equity Officer prepares a Complaint, the Equity Officer is not a Complainant or otherwise a party under this policy.

The University may consolidate Complaints as to allegations of discrimination or harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other Party where the allegations of discrimination or harassment, arise of the same facts or circumstances. Where this process involves more than one Complainant or more than one Respondent, each Complainant and each Respondent shall be entitled and subject to all of the rights and obligations set forth herein.

#### **H. Notice of Allegations:**

1. Upon receipt of a Complaint, the Equity Officer, will provide a written notice to the known Parties that includes the following:
  - a. A description of the University's available Equity Resolution processes, including Conflict Resolution;
  - b. Notice of the allegations of discrimination and/or harassment, including sufficient details known at the time. Sufficient details include the identities of the Parties involved in the incident, if known; the conduct allegedly constituting the discrimination and/or harassment; and the date and location of the alleged incident.
  - c. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Equity Resolution process.
  - d. A statement notifying the Parties of the availability of supportive measures.
  - e. A statement notifying the Parties of their right to have an Equity Support Person of their choice, who may be, but is not required to be, an attorney.
  - f. A statement notifying the Parties that they may have an Equity Support Person selected by a Party accompany the Party to all meetings, interviews, and proceedings to provide support for the Party throughout the Equity Resolution Process.

- g. A statement notifying the Parties that they will be permitted to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and including inculpatory or exculpatory evidence whether obtained from a Party or other source.
  - h. A statement notifying the Parties that they must be truthful when making any statement or providing any information or evidence to the University throughout the process, and all documentary evidence must be genuine and accurate. False statements and fraudulent evidence by an employee may be the basis for personnel action pursuant to CRR 370.010 or HR 601, or other applicable University policies, or for disciplinary action pursuant to CRR 200.010 for students.
  - i. A statement that nothing in the Equity Process is intended to supersede nor expand any rights the individual may have under applicable state or federal statutory laws or the U.S. Constitution.
  - j. A statement informing a Party that all notices hereafter will be sent via their University-issued email account, unless they provide to the Equity Officer an alternate method of notification. If a Party does not have a University-issued email account, all notices hereafter will be via U.S. Mail unless they provide the Equity Officer with a preferred method of notification.
2. The Notice of Allegations will be made in writing to the Parties by email to the Party's University-issued email account, with a read-receipt. If a read-receipt is not returned within one (1) business day or the Party does not have a University-issued email account, the Notice of Allegations shall be sent via U.S. Mail postage pre-paid to the last known address of the Party. Notice also may be provided in person to either Party. Notice is presumptively deemed delivered, when: 1) provided in person, 2) emailed to the individual, or 3) when mailed.
- I. **Supportive Measures.** Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Complaint. These measures are designed to restore or preserve equal access to the University's education programs, activities or employment without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the University's education environment, or deter discrimination and harassment. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Equity Officer is responsible for the effective implementation of supportive measures. Supportive measures may include:
- 1. Referral and facilitating contact for the Complainant or Respondent for counseling or other support services.
  - 2. Mutual restrictions on contact between the Parties.

3. Providing campus escort services to the Parties.
4. Increased security and monitoring of certain areas of the campus.
5. Adjusting the extracurricular activities, work schedules, work assignments, supervisory responsibilities, or work arrangements of the Complainant and/or Respondent, as appropriate.
6. If either Party is a student:
  - a. Referral of that Party to academic support services and any other services that may be beneficial to the Party.
  - b. Adjusting the courses, assignments, and/or exam schedules of the Party.
  - c. Altering the on-campus housing assignments, dining arrangements, or other campus services for the Party.
7. Providing limited transportation accommodations for the Parties.
8. Informing the Parties of the right to notify law enforcement authorities of the alleged incident and offering to help facilitate such a report.
9. Implementing an administrative leave for an employee in accordance with University Human Resources Policies.

**J. 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 Designee), the Equity Officer, 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 Designee), the Equity Officer, and/or the Equity Resolution Appellate Officer by an employee may be the basis for personnel action pursuant to CRR 370.010 or HR 601, or other applicable University policies, or if by a student may be the basis for disciplinary action pursuant to CRR 200.010. However, this obligation does not supersede nor expand any rights the individual may have under applicable state or federal statutory law or the U.S. Constitution. For purposes of this policy, “refusal to cooperate” does not include refusal to participate in any proceedings involving sex discrimination. The fact that a determination has been made that a Respondent has or has not violated any policy is not sufficient grounds, by itself, to declare that a false statement or fraudulent evidence has been provided by a Party or witness.

No employee or student, directly or through others, should take any action which may interfere with the investigation. Employees and students are prohibited from attempted or actual intimidation or harassment of any potential witness. Failure to adhere to these requirements may lead to disciplinary action, up to and including expulsion or termination.

**K. Rights of the Parties 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 University support resources (such as counseling and mental health services and University health services).
4. To request a no contact directive between the Parties.
5. To have an Equity Support Person of the Party's choice accompany the Party to all interviews, meetings, and proceedings throughout the Equity Resolution Process.
6. To refuse to have an allegation resolved through Conflict Resolution Process.
7. To receive prior to Administrative Resolution, an investigative report that fairly summarizes the relevant evidence in an electronic format or hard copy for their review and written response.
8. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
9. To have Complaints heard in substantial accordance with these procedures.
10. To receive written notice of any delay of the process or limited extension of time frames.
11. To be informed of the finding, rationale, sanctions and remedial actions.
12. To report the matter to law enforcement (if applicable) and to have assistance in making that report.
13. To have an opportunity to appeal a summary determination ending the process, and appeal the determination of a decision-maker.
14. When the Complainant is not the reporting Party, the Complainant has full rights to participate in any Equity Resolution Process under this policy.
15. Additional Rights for Students as a Party:
  - a. To request reasonable housing, living and other accommodations and remedies consistent with Section 600.050.I.
  - b. To receive amnesty for minor student misconduct that is ancillary to the incident, at the discretion of the Equity Officer.

**L. Role of Equity Support Persons.** Each Complainant and Respondent is allowed to have one Equity Support Person of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings. The Parties may select whomever they wish to serve as their Equity Support Person, including an attorney. An Equity Support Person is not required and any Party may elect to proceed without an Equity Support Person.

If Complainant is a student, they may request that the Equity Officer assign an Equity Support Person to provide support throughout the Equity Resolution Process. University Equity Support Person(s) are administrators, faculty, or staff at the University trained on the Equity Resolution Process. The Complainant may not require that the assigned Equity Support Person have specific qualifications such as being an attorney. An Equity Support Person cannot be called upon as a witness by a Party in a hearing to testify about matters learned while that individual was acting in their capacity as an Equity Support Person.

**M. Investigation.** Upon the initiation of a formal investigation, the Equity Officer will promptly appoint a trained Investigator or a team of trained Investigators to investigate the Complaint.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University.

The University cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the University obtains that Party's voluntary, written consent to do so for use in the Equity Resolution process.

The Parties are not prohibited from discussing the allegations under investigation or from gathering and presenting relevant evidence. The Parties may present witnesses and other inculpatory and exculpatory evidence; all such evidence must be relevant.

A Party whose participation is expected or invited at an interview or meeting shall receive written notice of the date, time, location, participants, and purpose of all meetings or investigative interviews with sufficient time for the Party to prepare to participate.

The Parties may be accompanied to any related meeting or proceeding by an Equity Support Person of their choice, who may be, but is not required to be, an attorney; however, the Equity Support Person may only participate in the proceedings as set forth in this policy.

The Investigator(s) will make reasonable efforts to conduct interviews with the Parties and relevant witnesses, obtain available evidence and identify sources of expert information, if necessary. The Investigator(s) will provide an investigative report to the Equity Officer. This report may contain the Investigator's observations regarding the credibility of the Complainant, the Respondent, and any witnesses interviewed.

The final investigative report will fairly summarize the relevant evidence.

All investigations will be thorough, reliable and impartial. All interviews shall be recorded. In the event that recording is not possible due to technological issues, the investigator shall take thorough notes and such notes shall be provided to the Parties in lieu of recordings. The investigator shall document the reason the recording was not possible and such documentation shall become part of the Record of the Case.

The investigation of reported discrimination or harassment should be completed expeditiously, normally within thirty (30) business days of the filing of the Complaint. Investigation of a Complaint may take longer based on the nature and circumstances of the Complaint.

- N. Impact of Optional Report to Law Enforcement.** A delay may also occur when criminal charges on the basis of the same behaviors that invoke this process are being investigated, to allow for evidence collection by the law enforcement agency. However, University action will not typically be altered or precluded on the grounds that civil cases or criminal charges involving the same incident have been filed or that such charges have been dismissed or reduced.

The Equity Officer will not wait for the conclusion of a criminal investigation or criminal proceeding to begin the Equity Resolution process. However, an Equity investigation and resolution process may be temporarily delayed for good cause, which can include concurrent law enforcement activity. In such instances, written notice of the delay or extension with reasons for the action will be sent to each Party.

If delayed, the Equity Officer will promptly resume the Equity investigation as soon as notified by the law enforcement agency that it has completed the evidence-gathering process. The Equity Officer will implement appropriate supportive measures during the law enforcement agency's investigation period to provide for the safety of all Parties, the University community and the avoidance of retaliation, discrimination, or harassment.

- O. Summary Resolution.** During or upon completion of investigation, the Equity Officer will review the investigation which may include meeting with the Investigator(s). The investigative report is not provided to the Parties during Summary Resolution, but is provided to the Parties at Administrative Resolution. Based on that review, the Equity Officer will make a summary determination whether, based on the evidence gathered, there is a sufficient basis to proceed with the Complaint that the Respondent is responsible for violating the University's Anti-Discrimination Policies.

If the Equity Officer determines that there is a sufficient basis to proceed with the Complaint, then the Equity Officer will direct the process to continue. The Complaint will then be resolved through either Conflict Resolution or Administrative Resolution.

If the Equity Officer determines that there is an insufficient basis to proceed with the Complaint, then the process will end and the Complainant and Respondent will be sent written notification of the determination. The Equity Officer may counsel and suggest monitoring or training opportunities to correct for inappropriate behavior that does not rise to the level of a violation.

Upon a summary determination ending the process, the University will promptly send written notice of the summary determination and reason(s) therefor simultaneously to the Parties. The Parties may appeal a summary determination ending the process in accordance with Section S. If the summary determination ending the process is reversed, the Equity Resolution Appellate Officer will direct the process to continue pursuant to this policy.

- P. **Conflict Resolution.** The Parties may choose to engage in Conflict Resolution at any time during the Equity Resolution Process. The decision of the Parties to engage in Conflict Resolution must be voluntary, informed, and in writing. The Parties are not required to engage in Conflict Resolution as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right. The Parties are not required to waive their right to an investigation of a Complaint or a right to Administrative Resolution. 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. Conflict Resolution is never available to resolve allegations that an employee sexually harassed or engaged in sexual misconduct with a student. Upon receiving a request for Conflict Resolution, the Equity Officer 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.

In Conflict Resolution, which includes mediation or facilitated dialogue, a neutral facilitator will foster dialogue with the Parties to an effective resolution, if possible. The Complainant's and the Respondent's Equity Support Person may attend the Conflict Resolution meeting. The Parties will abide by the terms of the agreed upon resolution. Failure to abide by the terms of the agreed upon resolution may be referred to the Equity Officer for review and referral to the appropriate University Process for discipline or sanctions. The Equity Officer will keep records of any Conflict Resolution that is reached.

In the event the Parties are unable to reach a mutually agreeable resolution, the matter will be referred back to the Administrative Resolution process. The content of the Parties' discussion during the Conflict Resolution Process will be kept confidential in the event the matter proceeds to the Administrative Resolution Process. The Parties' agreement to participate in, refusal to participate in, or termination of participation in Conflict Resolution shall not be factors in any subsequent decisions regarding whether a policy violation occurred.

Q. **Administrative Resolution.**

1. **Procedural Details for Administrative Resolution.** The Administrative Resolution process is a process whereby decision-makers will meet with the Parties and their Equity Support Person, if any, and consider the evidence

provided by the investigator, including the investigative report, and evidence provided by the Parties, and will make a determination of responsibility that is binding on both Parties. For the Administrative Resolution Process, which is described in more detail below, 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. The decision-makers have the discretion to determine the relevance of any witness or documentary evidence and may exclude information that is irrelevant, immaterial, cumulative, or more prejudicial than informative. In addition, the following rules shall apply to the introduction of evidence:
  - (1) Questions and evidence about the Complainant’s pre-disposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
  - (2) Character evidence is information that does not directly relate to the facts at issue, but instead reflects upon the reputation, personality, or qualities of an individual, including honesty. Such evidence regarding either Party’s character is of limited utility and shall not be admitted unless deemed relevant by the decision-makers.
  - (3) Incidents or behaviors of a Party 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 a Party that shows a pattern may be considered only if deemed relevant by the decision-makers.
  - (4) A Party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made or maintained in connection with the provision of treatment to the Party, may not be used without that Party’s express consent.
  - (5) The decision-makers shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- c. In the Administrative Resolution Process, the Respondent and the Complainant may provide a list of questions for the decision-makers to ask the other Party. If those questions are deemed appropriate and relevant, they may be asked on behalf of the requesting Party; answers to such questions will be shared with the requesting Party.

- d. The Administrative Resolution Process may proceed regardless of whether the Respondent chooses to participate in the investigation or the finding.
- e. The Administrative Resolution Process will normally be completed within a reasonably prompt time period, not to exceed one hundred twenty (120) days, following the Equity Officer's receipt of a Complaint. Unusual delays will be promptly communicated to both Parties.
- f. For good cause, the Equity Officer (for University Respondents), or Equity HR Officer (for Staff Respondents) may, in their discretion, grant reasonable extensions to the timeframes and limits provided.

## **2. Process for Administrative Resolution**

Administrative Resolution can be pursued for any behavior that falls within the University's Anti-Discrimination Policies.

The Administrative Resolution process consists of:

- a. A prompt, thorough and impartial investigation by the Investigator;
- b. A separate meeting with each Party and their Equity Support Person, if any, and the joint decision-makers, if requested;
- c. A joint finding by designated decision-makers. For Complaints against a Staff member as a Respondent, a joint finding will be issued by the Equity HR Officer and Supervisor on each of the alleged policy violations and sanctions and remedial actions, if any, for findings of responsibility. For Complaints against the University of Missouri as a Respondent, a joint finding will be issued by the Equity Officer and Designated Administrator on each of the alleged policy violations and remedial actions for findings of responsibility.

At least fifteen (15) business days prior to meeting with the decision-makers or if no meeting is requested, at least fifteen (15) business days prior to the decision-makers rendering a finding(s), the Equity Officer (for University Respondents) or Equity HR Officer (for Staff Respondents) will send a letter (Notice of Administrative Resolution) containing the following information to the Parties:

- d. A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
- e. Reference to or attachment of the applicable procedures.
- f. A copy of the final Investigative Report.
- g. The option and deadline of ten (10) business days from the date of the notice to request a meeting with the decision-makers.
- h. An indication that the Parties may have the assistance of an Equity Support Person of their choosing at the meeting with the decision-makers, though the Equity Support Person's attendance at the meeting is the responsibility of the respective Parties.

The Notice of Administrative Resolution will be sent to each Party by email to their University-issued email account, or by the method of notification previously designated in writing by the Party. Notice is presumptively deemed delivered,

when: 1) provided in person, 2) emailed to the individual to their University-issued email account, or 3) when sent via the alternate method of notification specified by the Party.

The Investigator(s) will also provide a copy of the final Investigative report to the Equity HR Officer and Supervisor (if Staff Respondent) or to the Equity Officer and Designated Administrator (if University Respondent).

The decision-makers can, but are not required to, meet with and question the Investigator(s) and any identified witnesses. The decision-makers may request that the Investigator(s) conduct additional interviews and/or gather additional information. The decision-makers will attempt to meet separately with the Complainant and the Respondent, and their Equity Support Person, if any, to review the alleged policy violations and the investigative report. The Respondent may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If the Respondent admits responsibility, in whole or in part, the decision-makers will render a finding that the individual is in violation of University policy for the admitted conduct. For any disputed violations, the decision-makers will render a joint finding utilizing the preponderance of the evidence standard. The decision-makers will also render a finding on appropriate sanctions or remedial actions, if applicable. The joint finding(s) are subject to appeal.

The Equity HR Officer (if Staff Respondent) or the Equity Officer (if University Respondent) will inform the Respondent and the Complainant simultaneously of the joint finding on each of the alleged policy violations and the joint finding on sanctions for findings of responsibility, if applicable, within ten (10) business days of the last meeting with any Party or witness. Notice will be made to the Respondent and the Complainant simultaneously in writing by email to the Party's University-issued email account, or by the method of notification previously designated in writing by the Party. Notice is presumptively deemed delivered, when: 1) provided in person, 2) emailed to the individual to their University-issued email account, or 3) when sent via the alternate method of notification specified by the Party.

## **R. Sanctions and Remedial Actions**

1. If the Staff Respondent is found responsible for a violation of the University's Anti-Discrimination Policies, the Equity HR Officer and Supervisor will determine sanctions and remedial actions. If the University is found responsible for a violation of the University's Anti-Discrimination Policies, the Equity Officer and Designated Administrator will determine remedial actions.
2. Factors to be considered when finding sanctions and remedial actions may include:
  - a. The nature, severity of, and circumstances surrounding the violation;
  - b. The disciplinary history of the Respondent;

- c. The need for sanctions/remedial actions to bring an end to the conduct;
  - d. The need for sanctions/remedial actions to prevent the future recurrence of conduct;
  - e. The need to remedy the effects of the conduct on the Complainant and the University community; and
  - f. Any other information deemed relevant by the decision-maker(s).
3. **Types of Sanctions.** The following sanctions may be imposed upon any Staff Member found to have violated the University's Anti-Discrimination Policies. 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; and
  - j. Recommendation of discipline in a training program, including recommendation of termination, suspension or other corrective or remedial actions.
4. **Remedial Actions.** The following remedial actions may also be imposed to address the effects of the violation(s) of the University's Anti-Discrimination Policies on the Complainant for violations by a Staff Member or the University as a Respondent. The Equity Officer or Equity HR Officer is responsible for effective implementation of any remedial actions. Such remedial actions will vary depending on the circumstances of the policy violation(s), but may include:
- a. Where the Complainant is a student:
    - (1) Permitting the student to retake courses;
    - (2) Providing tuition reimbursement;
    - (3) Providing additional academic support;
    - (4) Removal of a disciplinary action; and
    - (5) Providing educational and/or on-campus housing accommodations.
  - b. Where the Complainant is an employee:
    - (1) Removal of a disciplinary action;
    - (2) Modification of a performance review;
    - (3) Adjustment in pay;
    - (4) Changes to the employee's reporting relationships; and
    - (5) Workplace accommodations.
  - c. In addition, the University may offer or require training and/or monitoring as appropriate to address the effects of the violation(s) of the University's Anti-Discrimination Policies.



5. **When Implemented.** Sanctions and remedial actions are implemented immediately by the Equity Officer, unless the Equity Resolution Appellate Officer stays their implementation pending the outcome of the appeal.

## S. Appeal.

1. **Grounds for Appeal.** Both the Complainant and the Respondent are allowed to appeal the dismissal of a Complaint or any allegations therein, summary determination ending the process, or a determination regarding responsibility in the Administrative Resolution Process. Grounds for appeal are limited to the following:
  - a. A procedural irregularity that affected the outcome of the dismissal decision or the Administrative Resolution Process (e.g., material deviation from established procedures, etc.);
  - b. To consider new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
  - c. That the Equity Officer, Equity HR Officer, Investigator(s), or other decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
  - d. The sanctions fall outside the range typically imposed for this offense, or for the cumulative disciplinary record of the Respondent.
2. **Requests for Appeal.** Both the Complainant and the Respondent may appeal to the Equity Resolution Appellate Officer. The Equity Resolution Appellate Officer must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent; if the Equity Resolution Appellate Officer does not believe that they can make an objective decision about an appeal, they should recuse themselves and the Chancellor (or Designee) for University Staff Respondents, or the President (or Designee) for System Staff and University Respondents, shall appoint an alternate Equity Resolution Appellate Officer to hear the pending appeal. All requests for appeal must be submitted in writing to the Equity Resolution Appellate Officer within five (5) business days of the delivery of the notice of joint findings by the designated decision-makers. When any Party requests an appeal, the other Party will be notified and receive a copy of the request for appeal from the Equity Resolution Appellate Officer.
3. **Response to Request for Appeal.** Within five (5) business days of the delivery of the notice and copy of the request for appeal, the non-appealing Party may file a written response to the request for appeal. The written 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) to determine whether:
  - a. The request is timely;

- b. The appeal is on the basis of any of the articulated 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 any 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 render a written decision whether the request for appeal is accepted or rejected within fifteen (15) business days from receipt of the request for appeal. If no written decision is provided to the Parties within fifteen (15) business days from receipt of the request, the appeal will be deemed accepted.

- 5. **Review of the Appeal.** If all three requirements for appeal listed in Paragraph 4 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 Case, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original decision-maker for reconsideration.
  - b. The Equity Resolution Appellate Officer will provide a written decision on the appeal simultaneously to all Parties within ten (10) business days from accepting the request for appeal. This decision will describe the result of the appeal and the rationale for the result.
  - c. In the event the Equity Resolution Appellate Officer is unable to render a written decision within ten (10) business days from accepting the request for appeal, the Equity Resolution Appellate Officer will promptly notify the Parties in writing of the delay.
  - 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.: 7-10 business days) to the deadlines in the appeal process. The Equity Resolution Appellate Officer will notify the Parties in writing if such extensions are granted.

- T. **Failure to complete Sanctions/Comply with Interim and Long-term Remedial Actions.** All Respondents are expected to comply with all sanctions and remedial actions within the timeframe specified. Failure to follow through on these sanctions and remedial actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and remedial actions through the applicable process.

- U. **Records.** In implementing this policy, records of all Complaints and resolutions will be kept by the Equity Officer. For purposes of review or appeal, the Record of the Case will be accessible at reasonable times and places to the Respondent and the Complainant. The Record of the Case will be kept for a minimum of seven (7) years following final resolution.

Each Equity Officer, including the Equity Officer for the academic medical center, shall maintain statistical, de-identified data on the race, gender and age of each Party to a Complaint for that university/ academic medical center, and will report such data on an annual basis to the President of the University of Missouri. Additionally, statistical data relating to each university in the University of Missouri System shall be reported on an annual basis to that university's Chancellor and chief officers for human resources, student affairs, and diversity, equity and inclusion; the academic medical center shall report such statistical data for the academic medical center on an annual basis to the Executive Vice-Chancellor for Health Affairs. Data relating to the University of Missouri System shall be reported on an annual basis to the University of Missouri System's chief officers for human resources, student affairs, and diversity, equity and inclusion.

- V. **Retaliation.** The University strictly prohibits retaliation against any person for making any good faith report of discrimination or harassment, or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of discrimination or harassment. For matters involving discrimination or harassment other than sex discrimination under this policy, employees have an obligation to cooperate with University officials including the Investigator, Equity Officer, Equity HR Officer, Supervisor, and/or the Equity Resolution Appellate Officer.

For matters involving sex discrimination under this policy, no person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by law, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for policy violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by law, constitutes retaliation.

The University must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or

FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of applicable law, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed with the Equity Officer in accordance with CRRs 600.010, 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 promptly notify the Equity Officer. The University will promptly investigate all complaints of retaliation in accordance with this policy.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this section.

Charging an individual with a policy violation for making a materially false statement in bad faith in the course of any proceedings under this policy does not constitute retaliation provided, however that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith.