

UNIVERSITY OF MISSOURI—KANSAS CITY
Division of Diversity, Equity and Access

Nondiscrimination, Sexual Harassment and Sexual Misconduct
Procedures for Complaint and Investigation Process

1. STATEMENT

It is the policy of the University of Missouri-Kansas City to provide an educational and working environment that provides equal opportunities to members of the University community. In accordance with federal and state law and University policy, the University prohibits unlawful discrimination based on race, color, sex, religion, national origin, age, disability, citizenship, and veteran status. Furthermore, sexual misconduct and sexual harassment in any form will not be tolerated and individuals who engage in such conduct will be subject to disciplinary action. The University also prohibits discrimination based on sexual orientation.

These procedures which are governed by university policy apply to all university administrators, faculty, staff, students, visitors and applicants for employment or admission and are to be used in support of university anti-discrimination policies.

2. DEFINITIONS

- **Discrimination (including harassment):** Conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education on account of race, color, sex, religion, national origin, age, disability, citizenship, veteran status, and sexual orientation.
- **Harassment, as a form of discrimination:** Verbal or physical conduct that is directed at an individual or group because of race, color, sex, religion, national origin, age, disability, citizenship, veteran status, or sexual orientation when such conduct is sufficiently severe, pervasive or persistent so as to have the purpose or effect of interfering with an individual's or group's academic or work performance; or of creating a hostile academic or work environment. Constitutionally protected expression cannot be considered harassment under these procedures.
- **Sexual misconduct:** This conduct includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed toward another individual that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the workplace or classroom.

- Sexual harassment: A form of discrimination that includes unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature, when:
 - submission to such conduct is made either explicitly or implicitly a term or condition of employment or student status;
 - submission or rejection of such conduct is used as a basis for evaluation in making personnel or academic decisions affecting that individual; or
 - such conduct has the purpose or effect of unreasonably interfering with an individual's performance as an administrator, faculty member, staff or student, or creating an intimidating, hostile or offensive environment.

- Examples of sexual misconduct or sexual harassment may include, but are not limited to:
 - physical contact of a sexual nature including, touching, patting, hugging, or brushing against a person's body;
 - explicit or implicit propositions or offers to engage in sexual activity;
 - comments of a sexual nature including sexually explicit statements, questions, jokes or anecdotes; remarks of a sexual nature about a person's clothing or body; remarks about sexual activity; speculations about sexual experience;
 - exposure to sexually oriented graffiti, pictures, posters, or materials; and/or
 - physical interference with or restriction of an individual's movements.

3. RESOLUTION OPTIONS

A person who believes that he or she has been subjected to discrimination or harassment including sexual harassment or sexual misconduct and seeks to take action may use either the informal or formal complaint process.

4. INFORMAL RESOLUTION PROCESS

This process may be used as a prelude to filing a formal complaint or as an alternative. It is not necessary that this option be used. Anyone who believes that he or she has been subjected to discrimination may immediately file a formal complaint as described

in Section 5 of these procedures. Informal resolution may be an appropriate choice when the conduct is not of a serious or repetitive nature and disciplinary action is not required to remedy the incident. A formal investigation is not undertaken in the informal resolution process. Rather, the following process is used:

- **Reporting:** Individuals who wish to utilize the informal resolution process should contact the Affirmative Action Director or Equal Opportunity Specialist.
- **Informal Assistance:** Individuals are provided assistance in attempting to resolve possible discrimination if the individual does not wish to file a formal complaint. Such assistance includes strategies for the individual to effectively inform the offending party that his or her conduct is offensive and should cease, action by an appropriate university official to stop the offensive conduct, modification of the situation in which the offensive conduct occurred, or mediation between the parties. However, the University may take more formal action if necessary to ensure an environment is free of discrimination.

5. FORMAL COMPLAINT PROCESS

(This complaint procedure also constitutes the grievance procedure for complaints alleging unlawful sex discrimination required under Title IX of the Education Amendments of 1972 and under University of Missouri policies governing discrimination and sexual harassment.)

- **Equal Employment Opportunity (EEO) Officer.** The Affirmative Action Director (who serves as UMKC's EEO Officer) and the Equal Employment Specialist are authorized to investigate complaints based on discrimination. The Affirmative Action Office is located at 223 Administrative Center, 5115 Oak St., telephone number 816-235-1323. Mailing address is 5100 Rockhill Rd., Kansas City, Missouri 64110-2499.

- **Reporting**

- The University of Missouri-Kansas City encourages any person who believes that he or she has been subjected to discrimination to immediately report the incident to his or her supervisor, to the appropriate supervisor of the accused faculty member or employee, to the Affirmative Action Director, or when a student is the accused individual to the Director of Student Life. When any representative of the University receives a complaint of discrimination or sexual harassment, he or she will immediately notify the Affirmative Action Director or Equal Employment Specialist.
 - Complaints should be filed within ten (10) days after the conduct giving rise to the complaint, but no later than 180 calendar days from the date of the alleged incident.
 - In order to initiate the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought and any documents or information relevant to the complaint. While an investigation may begin on the basis of an oral complaint, the complainant is strongly encouraged to file a written complaint. Complaint intake forms are located on the Diversity, Equity and Access website at:
<http://www.umkc.edu/chancellor/ode/forms.asp>.
 - **Complaint Investigation**
 - The Affirmative Action Director and Equal Opportunity Specialist are responsible for investigating formal complaints. If the complaint is not in writing, the investigator will prepare a statement of what he or she understands the complaint to be and seek to obtain verification of the complaint from the complainant.
 - Within seven (7) work days from the receipt of a complaint, the Affirmative Action Director may dismiss the complaint or authorize an investigation.
- A complaint may be dismissed if the facts alleged in the complaint, even if taken as true, do not constitute discrimination; the complainant fails to allege any facts

that suggest discrimination occurred; if after a preliminary review, there is nothing that suggests that discrimination occurred; or the appropriate resolution or remedy has already been achieved, or has been offered and rejected.

- If it is determined that a complaint will not be investigated, the Affirmative Action Director will send the complainant a notification letter explaining the reason for the dismissal and informing the complainant that, within seven (7) work days of the notification, he or she may appeal the decision to the Deputy Chancellor of Diversity, Equity and Access. The Deputy Chancellor will respond within ten (10) work days of receipt of the appeal. The Deputy Chancellor's decision is final. If the decision to dismiss is overturned, the complaint is sent back to the Affirmative Action Director for investigation in accordance with the procedures outlined below.

- As part of the investigation the accused individual shall be provided with a copy of the complaint and allowed reasonable time to respond in writing.

- The complainant and the accused individual may present any document or information that is believed to be relevant to the complaint.

- Any persons thought to have information relevant to the complaint will be interviewed and such interviews will be appropriately documented.

- The investigation of a complaint will be conducted as soon as possible after receipt of the written complaint. In investigations exceeding sixty (60) days, a justification for the delay will be presented to and reviewed by the Deputy Chancellor. The complainant, accused individual, and appropriate supervisor(s)

will be provided an update on the progress of the investigation after the review.

- Upon completion of the investigation, a written report will be issued. The report will include an analysis of facts discovered during the investigation, a finding of whether a violation of the policy occurred, any relevant evidence, and recommended disciplinary action if a violation of the policy occurred. The Affirmative Action Director may make recommendations to assist in resolving any workplace issues which are discovered during the investigation regardless of whether discrimination or sexual harassment can be substantiated.

- Prior to releasing the report, the Affirmative Action Director will contact the complainant to discuss the findings of the investigation. At the meeting, the complainant will have an opportunity to provide any new information he or she may have. If it is determined that the new information is relevant to the complaint, the Affirmative Action Director will conduct an ancillary investigation and the results will be added to the final report.

- A copy of the report will be sent to the complainant, the respondent, the immediate supervisor and the appropriate Vice Chancellor(s) or Dean (s) who has authority over the complainant and respondent. If the complainant and respondent are employees of UMKC and wish to respond to the report, they have seven (7) days from the date of receipt of the report to submit comments in writing to the appropriate Vice Chancellor. However, if the complaint is filed against a student, the complainant and respondent may not receive or comment on the report due to the Family Education Rights and Privacy Acts restrictions on disclosure of educational records.

- If the complainant or respondent is a student, and he or she is not satisfied with the findings of the Affirmative Action office, he or

she may file a grievance as provided in Student Grievance Procedure for Students, Sec. 390.010(D)(2) of the University of Missouri Collected Rules and Regulations.

- If the complainant or respondent is an administrative, service or support staff member, and he or she is not satisfied with the findings of the Affirmative Action office, he or she may file a grievance as provided in the Grievance Procedure for Administrative, Service and Support Staff, Sec. 380.010(B)(2) of the University of Missouri Collected Rules and Regulations.

- If the complainant or respondent is a faculty member, and he or she is not satisfied with the findings of the Affirmative Action office, he or she may file a grievance as provided in the Academic Grievance Procedure, Sec. 370.010 of the University of Missouri Collected Rules and Regulations.

- The complainant, the respondent, and the Affirmative Action Director shall be informed in writing of the Grievance Representative's decision and the grievance panel's (if applicable) decision and shall be provided a copy of the final statement of findings. **However, if the complaint is filed against a student, information sent to the complainant will be in compliance with the Family Education Rights and Privacy Act.**

- In the case of a student against whom disciplinary action is recommended, the Affirmative Action Director will notify the Director of Student Life.

- Implementation of disciplinary action against faculty, employees and students will be handled in accordance with the University's

policy and procedures for discipline and dismissal of faculty, employees and students.

6. PROVISIONS APPLICABLE TO ALL COMPLAINTS

- Assistance. During the complaint process, a complainant or respondent may be accompanied or assisted by a person of his or her choice; however, the assistant may not examine witnesses or otherwise actively participate in a meeting or interview.
- Retaliation. An administrator, faculty member, student or employee who retaliates in any way against an individual who has brought a complaint pursuant to these procedures or an individual who has participated in an investigation of such a complaint is subject to disciplinary action, including dismissal.
- False Statements. Any person who knowingly and intentionally files a false complaint or makes false statements in the course of the investigation is subject to disciplinary action up to and including dismissal from the University.
- Confidentiality and Documentation. The University shall document complaints and their resolution. The Affirmative Action office shall retain such documentation. To the extent permitted by law, complaints and information received during the investigation will remain confidential. Relevant information will be provided only to those persons who need to know in order to achieve a timely resolution of the complaint.

7. DISSEMINATION OF PROCESSES

- These procedures along with the governing policy will be made available to all faculty, employees and students. Periodic notices sent to students, employees and faculty about the University's nondiscrimination policy will include information about the complaint procedure and will refer individuals to designated office or officials for additional information.
- The University will periodically educate and train employees, supervisors, and students regarding UMKC's non-discrimination policies and conduct that could constitute a violation of nondiscrimination policies.