



Guide to Understanding the Equity Resolution Process

University of Missouri System

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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.

The University is committed to affording equal employment and education opportunities to its employees and students, and to creating an environment free from discrimination and harassment. Equal Opportunity is and shall be provided for all employees and applicants for employment on the basis of their demonstrated ability and competence, and 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.

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.

The information listed in this guide pertains to discriminatory and harassing conduct alleged to have occurred on or after August 14, 2020, as per CRRs [600.010](#), [600.040](#), [600.050](#). For information regarding an incident that occurred prior to August 14, 2020, please contact your Equity Officer.

Introduction

If you are involved in an Equity case, you might be feeling upset, confused, angry, or overwhelmed. If you are the Complainant, that means that you believe that someone has subjected you to discrimination or harassment in violation of Section 600.010 the University of Missouri's anti-discrimination policy. If you are the Respondent, that means someone has accused you of violating the University of Missouri's anti-discrimination policy. This guide will hopefully aid in helping you to understand the University's Equity process and provide you some resources that are available to you at this time.

As you go through this process, it is important for you to understand the University of Missouri's anti-discrimination policies and procedures. These can be found in [Chapter 600 of the University of Missouri's Collected Rules and Regulations](#).

There are also several resources available to you as a Party in this process, both on campus and off-campus in your local community that can help address mental, emotional, physical, academic, medical or substance abuse needs. Your university Equity office can also provide a number of supportive measures to you, from rearranging course or work schedules, providing extensions to deadlines, to altering your university housing. It may tailor the available supportive measures to your needs.

If you reach out for support, it will be important for you to note that some support resources will be confidential while others are not. If you need confidential support, help, or information regarding your specific situation, you may contact an employee with a legal privilege of confidentiality or a confidential designee on campus. Employees with a legal privilege of confidentiality include health care providers, counselors, and their associated staff. A listing of confidential reporting support at your university can be found at: https://www.umsystem.edu/ums/dei/titleix/reporting_incidents. Please take time to consider whether any of these resources would be beneficial for you to utilize at this time.

At any time during this process, you may always reach out to your Equity office with questions.



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Definitions

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

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.

Complaint means 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.

Equity Support Person is an individual selected by a Party to provide support and guidance throughout the Equity Resolution Process. Each Party is allowed one Equity Support Person.

Incapacitation occurs when a person is in 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. Sexual contact with someone one knows to be or should know to be incapacitated is a violation of policy.

Respondent refers to the Faculty Member(s), student(s) or student organization, staff member(s), or the University of Missouri alleged to have violated the University's Anti-Discrimination Policies.

Definitions (continued)

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 the Equity processes. 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.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after the filing of a Complaint or where no Complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all Parties or the University's educational environment, or deter discrimination and harassment.



What is the Process?

To make a report:

- Any person (whether or not the person reporting is the Complainant) may report discrimination or harassment to their University Equity Officer. Such reports may be made in person, or at any time by mail, by telephone, by e-mail, or any other means that would result in the Equity Officer receiving the person's verbal or written report.
- The report might be made to the University Equity office alone or also to law enforcement. It is always the Complainant's choice on whether or not to make a report to a law enforcement agency. The University can provide assistance to individuals wishing to pursue legal remedies, such as providing assistance to make a police report or requesting an order of protection.
- Upon receipt of the report, the Equity Officer will contact the Complainant to discuss the availability of supportive measures and to explain and discuss the Equity process.

Filing a Complaint:

- A Complainant may file a Complaint with the Equity Officer, which 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 allegations.
- The University may serve as the Complainant when the person alleged to have been subjected to discrimination or harassment chooses not to act as the Complainant in the resolution process or requests that the Complaint not be pursued.
- Once a Complaint has been received by the appropriate Equity Office, an assigned investigator will initiate the investigating process and also send to the known Parties Notice of Allegations, which will include a description of the Equity process and a Party's rights throughout the Equity process, as well as notice regarding the allegations of discrimination or harassment charged.

Investigation Phases:

It is important to distinguish an Equity investigation from a criminal investigation. An Equity investigation is a process created to determine whether or not a university policy has been violated. An Equity investigation cannot result in incarceration but could result in disciplinary action by the University. An Equity action may proceed regardless of whether a criminal investigation is pursued or ongoing.

- All investigations will be thorough, reliable and impartial. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University. The Parties may also present witnesses, and other inculpatory and exculpatory evidence; all such evidence must be relevant.
- The Investigator will present to the Equity Officer the investigative report which will fairly summarize the relevant evidence.
- During or upon completion of the investigation, the Equity Officer will review the investigation and make a summary determination whether 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 a sufficient basis exists to proceed, then the Equity Officer will direct the process to continue. If not, then the process will end.
- Either Party may request reconsideration of a summary determination ending the process.

What is the Process (continued)?

Resolution Processes

- Each Party may elect to have an Equity Support Person of their choice present with them for all Equity process interviews, meetings, and proceedings. The Parties may select whomever they wish to serve as their Equity Support Person, including an attorney or parent.
- The Complaint will be resolved by Conflict Resolution, Administrative Resolution or Hearing Panel Resolution* (three-person panel). The University uses a “preponderance of the evidence” standard to determine whether the evidence shows that it is more likely than not that a policy violation occurred. If a finding of responsibility is made, sanctions and/or remedial actions of a varying range may be imposed.
**This process is available for student, student organization or faculty member Respondents.*
- For Hearing Panel Resolution, each Party may have an Equity Support Person of their choice present at the hearing. If requested by a student Party, the Equity Officer may assign an Equity Support Person to explain the Equity Resolution Process and attend interviews, meetings, and proceedings with the student Party.
- The Equity Support Person may not make any presentation or represent the Complainant or Respondent during the hearing. Although the Equity Support Person may consult with the Party, Parties are expected to ask and respond to questions on their own behalf, without representation by the Equity Support Person.
- Findings of responsibilities and sanctions imposed may be appealed by either the Complainant or Respondent for the following reasons:
 1. A **procedural irregularity** that affected the outcome of the matter;
 2. 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;
 3. The Equity Officer, Investigator(s), or 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
 4. The **sanctions fall outside the range typically imposed for this offense**, or for the cumulative conduct record of the Respondent.

***Please note that this information is intended to be a general overview of the process.*

Retaliation

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 the Equity processes. 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, Provost (or Designee), Hearing Panel, and/or the Equity Resolution Appellate Officer.

What is the Process (continued)?

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.

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 investigate all complaints 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.

Complaints alleging retaliation may be filed with the Equity Officer in accordance with CRRs 600.010, 600.040, and 600.050.

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

For a full explanation, please refer to the University of Missouri's Collected Rules and Regulations. Here are links to the University of Missouri's current Collected Rules and Regulations:

- [600.010 Equal Employment/Educational Opportunity and Nondiscrimination Policy](#)
- [600.020 Sexual Harassment under Title IX](#)
- [600.030 Resolution Process for Resolving Complaints of Sexual Harassment under Title IX](#)
- [600.040 Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against a Faculty Member or Student or Student Organization](#)
- [600.050 Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against a Staff Member or the University of Missouri](#)

Equity Resolution Process (ERP) Flowchart

Report of discrimination or harassment received by the Equity Office

Equity Officer will promptly contact the identified Complainant to discuss the availability of supportive measures and to explain and discuss the Equity process.

If Complainant is unidentified, a limited investigation may be conducted to identify the Complainant.

If a Complaint is filed, an investigation will be initiated and the Equity Officer will send to the known Parties the Notice of Allegations.

During the Equity Process and prior to a determination of responsibility, each Party is allowed to have an Equity Support Person of their choice accompany them to any related interview, meeting or proceeding. If requested, the University may assign a Trained Equity Support Person to a student Party.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University. An investigative report will be sent to the Equity Officer for review.

Equity Officer will make a summary determination whether there is a sufficient basis to proceed with the Complaint that the Respondent is responsible for violating the University's anti-discrimination policies.

If not, process will end and the Parties will be sent notification of the determination.

If so, process will continue to Conflict Resolution, Administrative Resolution, or Hearing Panel Resolution.

The Parties may request reconsideration of a summary determination ending the process.

Types of Resolutions:

Conflict Resolution (pg. 11), Administrative Resolution (pg. 11) and Hearing Panel Resolution (pg. 12)

CONTINUE TO TOP OF PAGE 11

ERP Flowchart (continued)

Type of Resolution: Conflict Resolution

**This process is not available to resolve allegations that an employee sexually harassed or engaged in sexual misconduct with a student.*

The Parties may choose to engage in Conflict Resolution (i.e., facilitated dialogue, mediation) at any time during the Equity Resolution Process. Each Party's choice to participate must be voluntary, informed and in writing.

A neutral, University-assigned facilitator will foster dialogue between the Parties to try to reach a mutually agreed upon resolution, if possible. Failure to abide by the agreed-upon resolution may result in sanctions. If the Parties are unable to reach a resolution, the investigation will be referred to an alternative process.

Type of Resolution: Administrative Resolution

The decision-maker will attempt to meet separately with the Complainant and the Respondent to review the alleged policy violations, the investigative report and evidence provided by the Parties.

Each Party may provide a list of questions for the decision-maker to ask the other Party. If those questions are deemed appropriate and relevant, they may be asked on behalf of the requesting Party; answers will be shared with the requesting party.

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-maker will render a finding that the individual is in violation of University policy for the admitted conduct.

For any disputed violations, the decision-maker will render a finding utilizing the preponderance of evidence standard.

The decision-maker will also render a finding on appropriate sanctions or remedial actions, if applicable.

Either Party may appeal a decision under Administrative Resolution.

The decision-maker will inform each Party of the finding on the alleged policy violation(s) and sanction(s), if applicable.

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This flowchart is intended to provide a general overview. A full explanation of the resolution process can be found in the policy available in [CRR 600.040](#) (for faculty or student/student organization as Respondent) and [600.050](#) (for staff member or University of Missouri as Respondent)

ERP Flowchart (continued)

Type of Resolution: Hearing Panel Resolution

**This process is not available to Staff Respondents.*

At least 20 business days prior to the hearing, a Notice of Hearing letter will be sent to the Parties providing specific information about the hearing, including a copy of the final investigative report and exhibits.

In the Notice of Hearing, the Parties will be given the names of each of the Hearing Panel members and must raise any objection to any panelist at least 15 business days prior to the hearing.

At least 10 business days prior to the hearing, the Investigator will provide to each Party the names of proposed witnesses and proposed documentary evidence that the other Party intends to call or use at the hearing.

The Hearing Panel Chair shall preside at the hearing, and may ask questions of the Parties or any witnesses including the Investigator at any time during the Hearing.

The Investigator will first present the written investigative report and may give a narrative report of the investigation and then be subject to questioning by the Complainant, the Respondent, and the Hearing Panel. The Investigator may also call witnesses who will be subject to questioning by the Investigator, the Complainant, the Respondent and the Hearing Panel. The Investigator may also submit documentary evidence. The Investigator will remain present during the entire hearing process.

CONTINUE TO TOP OF PAGE 13

This flowchart is intended to provide a general overview. A full explanation of the resolution process can be found in the policy available in [CRR 600.040](#) (for faculty or student/student organization as Respondent) and [600.050](#) (for staff member or University of Missouri as Respondent)

ERP Flowchart (continued)

The Complainant may give testimony and be subject to questioning by the Investigator, the Respondent* and the Hearing Panel. The Complainant may call and question witnesses who may also be questioned by Respondent, the Investigator and the Hearing Panel. The Complainant may also submit documentary evidence.

The Respondent may give testimony and be subject to questioning by the Investigator, the Complainant* and the Hearing Panel. The Respondent may call and question witnesses who may also be questioned by Complainant, the Investigator and the Hearing Panel. The Respondent may also submit documentary evidence.

*Neither the Complainant nor the Respondent may directly question the other. However, if both request the opportunity, direct questioning between the Parties will be permitted in the Hearing Panel Resolution process. Otherwise written questions will be directed to the Chair in the Hearing Panel Resolution Process, and those questions deemed appropriate and relevant will be asked on behalf of the requesting Party.

The Hearing Panel will deliberate with no others present, except any legal advisor to the Hearing Panel, to find whether or not the Respondent is responsible for the policy violation(s) in question. The panel will base its finding on a preponderance of the evidence (i.e., whether it is more likely than not that the Respondent committed each alleged violation). If a Respondent is found responsible by a majority of the panel, the panel will determine, or if a Faculty Respondent recommend to the Provost, appropriate sanctions and remedial actions by a majority vote.

The Hearing Panel Chair will prepare a written determination (“Hearing Panel Decision”) within five (5) business days of the end of deliberations.

The Parties will be notified in writing of the finding(s) on the alleged policy violation(s) and sanction(s), if applicable, within five (5) business days of the Equity Officer’s receipt of the panel decision.

Finding(s) and sanction(s) are subject to appeal.

What are my rights during this process?

What are my rights as a Party in this Process?

All Parties involved will be treated equitably. A Party has a right:

- To be treated with respect by University officials.
- To be free from retaliation.
- To have access to University support resources (such as counseling and mental health services and University health services).
- To request a no contact directive between the Parties.
- 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.
- To refuse to have an allegation resolved through Conflict Resolution Process, or Administrative Resolution Process (Student, Student Organization, and Faculty Respondents).
- To receive prior to a hearing or other time of determination regarding responsibility, an investigative report that fairly summarizes the relevant evidence in an electronic format or hard copy for their review and written response.
- To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
- To have Complaints heard in substantial accordance with the processes outlined in Sections 600.040 and 600.050 of the UM System Collected Rules and Regulations.
- To receive written notice of any delay of this process or limited extension of time frames.
- To be informed of the finding, rationale, sanctions and remedial actions.
- To report the matter to law enforcement (if applicable) and to have assistance in making a report to law enforcement.
- To have an opportunity to appeal a summary determination ending the process, and appeal the determination of a hearing panel or decision-maker.
- When the Complainant is not the reporting Party, the Complainant has full rights to participate in any Equity Resolution Process.



What are my rights during this process?

Additional Rights for Students:

- To request reasonable housing, living and other accommodations and remedies consistent with [Section 600.040.H](#) or [600.050.I](#) of the Collected Rules and Regulations.
- To receive amnesty for minor student misconduct that is related to the incident, at the discretion of the Equity Officer.

Additional Rights for all Parties during the Hearing Panel Resolution Process:

- To receive notice of the hearing.
- To have the names of witnesses who may participate in the hearing and copies of all documentary evidence gathered in the course of the investigation and any investigative report prior to the hearing.
- To be present at the hearing, which right may be waived by either written notification to the Hearing Panel Chair or by failure to appear.
- To have present an Equity Support Person during the hearing and to consult with such Equity Support Person during the hearing.
- To request to have an Equity Support Person of the University's selection appointed for a student Party where the student Party does not have an Equity Support Person of their own choice at a hearing.
- To testify at the hearing or refuse to testify at the hearing.
- To have an equal opportunity to present witnesses and documents deemed relevant by the Hearing Panel Chair, and to question witnesses present and testifying at the hearing.
- To request that the hearing be held virtually, with technology enabling participants simultaneously to see and hear each other.

What resources are available to me?

Under the Equity Resolution Processes, both the Complainant and the Respondent have the right to a fair and equitable adjudication process. During these processes, your University's Title IX and Equity Office and staff can answer any questions you may have about your rights and responsibilities. The Title IX and Equity Office can help direct you to other resources both on and off campus that may be helpful to you in your situation, as well as help you make special arrangements for you depending on your particular situation.

For Frequently Asked Questions about Equity (anti-discrimination) policies, see www.umsystem.edu/ums/dei/titleix/equity-faqs

For various links to national, state and local community resources, see www.umsystem.edu/ums/dei/titleix/resources

For confidential support resources, see https://www.umsystem.edu/ums/dei/titleix/reporting_incidents



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