



## Vision

To advance the opportunities for success and well-being for Missouri, our nation and the world through transformative teaching, research, innovation, engagement and inclusion.

## Mission

To achieve excellence in the discovery, dissemination, preservation and application of knowledge. With an unwavering commitment to academic freedom and freedom of expression, the university educates students to become leaders, promotes lifelong learning by Missouri's citizens, fosters meaningful research and creative works, and serves as a catalyst for innovation, thereby advancing the educational, health, cultural, social and economic interests to benefit the people of Missouri, the nation, and the world.

## Missouri Compacts for Achieving Excellence

The Missouri Compacts for Achieving Excellence provide unifying principles that inform and guide the four universities and their strategic plans. Learn more about the compacts, below, at <http://umurl.us/prespri>.



Excellence in Student Success



Excellence in Research and Creative Works



Excellence in Engagement and Outreach



Inclusive Excellence



Excellence in Planning, Operations and Stewardship

## Core Values

Our institution collectively embraces a series of core values that serve as the foundation upon which we build new knowledge and provide outstanding programs for students and citizens of our state and beyond.



- Academic freedom
- Access
- Accountability
- Civility
- Collaboration
- Creativity
- Discovery
- Engagement
- Excellence
- Freedom of expression
- Inclusion
- Innovation
- Integrity
- Respect
- Responsibility
- Transparency

## Guiding Principles

1. Support courageous and proactive leadership that is articulate, unified and committed to excellence in carrying out our existing core missions of teaching, research, engagement and economic development and in meeting the changing needs of the world and the state.
2. Establish a collaborative environment in which UM System universities work together to achieve collective results that cannot be achieved individually and are committed to each other and our mutual success.
3. Exercise central authority that recognizes and respects institutional distinctiveness, appropriate deference and accountability.
4. Enact informed decisions based on collaboratively developed strategic directions and planning.
5. Identify and promote systemwide core values, including respect for all people, transparency, accountability, stewardship and purposeful self-assessment of performance.

**Board of Curators Special Meeting  
July 28, 2020  
Public Session**

# University of Missouri



## Board of Curators

### Special Meeting

Tuesday, July 28, 2020

2:00 P.M.

Originating:

From remote locations via Zoom and/or conference telephone.

**Zoom Webinar Link:** <https://umsystem.zoom.us/j/99197394966>

**Webinar ID:** 99197394966

**Public Session Dial-In Number:** +13017158592,,99197394966#

### AGENDA

#### **PUBLIC SESSION – 2:00 P.M.**

Call to Order – Chair Brncic

Roll Call of the Board of Curators

#### **2:00 P.M. General Business**

##### **General Business**

Action

1. Resolution for Executive Session of the July 28, 2020 Special Board of Curators Meeting

#### **2:05 P.M. BOARD OF CURATORS MEETING-EXECUTIVE SESSION (time is approximate)**

The Board of Curators will hold an executive session of the July 28, 2020 special meeting, pursuant to Sections 610.021(1), 610.021(2), 610.021(3), 610.021(12), 610.021(13) and 610.021(14) RSMo, for consideration of certain confidential or privileged communications with University Counsel, property, personnel, contract items and records protected by law, all as authorized by law and upon approval by resolution of the Board of Curators.

**2:45 P.M. RECONVENE PUBLIC SESSION** (time is approximate)

**General Business**

Information

1. Review of Consent Agenda

**Consent Agenda**

1. Minutes, June 18-19, 2020 Board of Curators Meeting
2. Minutes, June 9, 10 and 15, 2020 Board of Curators Committee Meetings held in Conjunction with the June 18-19, 2020 Board of Curators Meeting
3. Amendment to CRR 520.010, Benefit Programs
4. Replacement of Gender Specific Terms in Collected Rules and Regulations

**2:50 P.M. Combined Governance, Compensation & Human Resources and Academic, Student Affairs, Research & Economic Development Committee Meeting**

Action

1. Amendments to Collected Rules and Regulations (CRR) as follows to Comply with New Federal Regulations:
  - a. Amend CRR 600.010, Equal Employment/Educational Opportunity and Nondiscrimination Policy
  - b. Amend CRR 600.020 Sexual Harassment under Title IX
  - c. Amend CRR 600.030 Resolution Process for Resolving Complaints of Sexual Harassment under Title IX
  - d. Amend CRR 600.040, Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against a Faculty Member or Student or Student Organization
  - e. Amend CRR 600.050 Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against a Staff Member or the University of Missouri
  - f. Rescind CRR 600.060, Equity Resolution Process for Resolving Complaints of Discrimination, Harassment and Sexual Harassment against the University.

**3:40 P.M. General Business**

Action

2. UM System Organization Structure Evaluation Summary Report

**4:30 P.M. RECONVENE BOARD OF CURATORS MEETING-EXECUTIVE SESSION** (time is approximate)

# **GENERAL BUSINESS**

No. 1

Recommended Action – Resolution for Executive Session of the Board of Curators  
Special Meeting July 28, 2020

It was moved by Curator \_\_\_\_\_ and seconded by Curator \_\_\_\_\_, that there shall be an executive session with a closed record and closed vote of the Board of Curators special meeting July 28, 2020 for consideration of:

- **Section 610.021(1), RSMo**, relating to matters identified in that provision, which include legal actions, causes of action or litigation, and confidential or privileged communications with counsel; and
- **Section 610.021(2), RSMo**, relating to matters identified in that provision, which include leasing, purchase, or sale of real estate; and
- **Section 610.021(3), RSMo**, relating to matters identified in that provision, which include hiring, firing, disciplining, or promoting of particular employees; and
- **Section 610.021(12), RSMo**, relating to matters identified in that provision, which include sealed bids and related documents and sealed proposals and related documents or documents related to a negotiated contract; and
- **Section 610.021 (13), RSMo**, relating to matters identified in that provision, which include individually identifiable personnel records, performance ratings, or records pertaining to employees or applicants for employment; and
- **Section 610.021 (14), RSMo**, relating to matters identified in that provision, which include records which are protected from disclosure by law.

Roll call vote of the Board: YES NO

Curator Brncic  
Curator Chatman  
Curator Graham  
Curator Hoberock  
Curator Layman  
Curator Snowden  
Curator Steelman  
Curator Wenneker  
Curator Williams

The motion \_\_\_\_\_.

July 28, 2020

## REVIEW CONSENT AGENDA

There are no materials for this information item.

# **CONSENT AGENDA**



CONSENT

Recommended Action - Consent Agenda

It was endorsed by President Choi, moved by Curator \_\_\_\_\_ and seconded by Curator \_\_\_\_\_, that the following items be approved by consent agenda:

**CONSENT AGENDA**

Action

1. Minutes, June 18-19, 2020 Board of Curators Meeting
2. Minutes, June 9, 10 and 15, 2020 Board of Curators Committee Meetings held in Conjunction with the June 18-19, 2020 Board of Curators Meeting
3. Amendment to CRR 520.010, Benefit Programs
4. Replacement of Gender Specific Terms in Collected Rules and Regulations

Roll call vote of the Board: YES NO

- Curator Brncic
- Curator Chatman
- Curator Graham
- Curator Hoberock
- Curator Layman
- Curator Snowden
- Curator Steelman
- Curator Wenneker
- Curator Williams

The motion \_\_\_\_\_.

July 28, 2020

No. 1

Recommended Action - Minutes, June 18-19, 2020 Board of Curators Meeting  
Minutes

It was moved by Curator \_\_\_\_\_ and seconded by Curator \_\_\_\_\_, that the minutes of the June 18-19, 2020 Board of Curators meeting be approved as presented.

Roll call vote: YES NO

Curator Brncic

Curator Chatman

Curator Graham

Curator Hoberock

Curator Layman

Curator Snowden

Curator Steelman

Curator Wenneker

Curator Williams

The motion \_\_\_\_\_.

July 28, 2020

OPEN – CONSENT – 1-1

Consent 2

Recommended Action - Minutes, June 9, 10 and 15, 2020 Board of Curators  
Committee Meeting Minutes

It was moved by Curator \_\_\_\_\_ and seconded by Curator \_\_\_\_\_, that the minutes of the June 9, 10 and 15, 2020 Board of Curators committee meetings, held in conjunction with the June 18-19, 2020 Board of Curators meeting, be approved as presented.

Roll call vote:	YES	NO
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Curator Brncic  
Curator Chatman  
Curator Graham  
Curator Hoberock  
Curator Layman  
Curator Snowden  
Curator Steelman  
Curator Wenneker  
Curator Williams

The motion \_\_\_\_\_.

July 28, 2020

Collected Rules and Regulations 520.010 -  
Benefit Programs

Executive Summary

In June 2015, the Board of Curators approved amendments to the language in CRR 520.010 to include Sections E.1 through E.4 regarding delegation of authority and annual reporting. The Board of Curators delegated to the President of the University financial management, cost administration, plan design and selection of vendors for the covered benefit programs (medical, dental, disability, and life). This includes calendar year deductibles, coinsurance, participant contributions or premiums, copays, covered charges, covered services, out-of-pocket maximums, and exclusions, but does not include any modification of the University's and/or Participant's contribution percentages, eligibility requirements, or vesting requirements.

The proposed action item is to approve administration's recommendation to delegate authority to the President of the University to modify University and/or Participant contribution percentages. Participant contribution percentages are a key part of the annual process of evaluating the benefit plans. Determining annual premiums, deductibles copays, coinsurance, and other benefit design options have been delegated to the President. We are recommending a clarification to CRR 520.010 that includes the delegation of participant contribution percentages to the President, in order to have all elements of this process aligned. Eligibility requirements and vesting requirements would continue to be within the authority of the Board of Curators and the Board of Curators would continue to receive an annual update.

No. 3

Recommended Action – The Curators of the University of Missouri Collected Rules and Regulations Section 520.010 E.1 Benefit Programs

It was recommended by Associate Vice President and Chief Human Resources Officer Marsha Fischer, endorsed by President Choi, recommended by the Compensation and Human Resources Committee, moved by Curator \_\_\_\_\_, and seconded by Curator \_\_\_\_\_, that the following action be approved:

that the Collected Rules and Regulations Section 520.010 E.1 be amended as indicated in the attached document containing proposed language changes.

Roll call vote of the Committee: YES NO

Curator Chatman  
Curator Layman  
Curator Snowden  
Curator Williams

The motion \_\_\_\_\_.

Roll call vote of the Board: YES NO

Curator Brncic  
Curator Chatman  
Curator Graham  
Curator Hoberock  
Curator Layman  
Curator Snowden  
Curator Steelman  
Curator Wenneker  
Curator Williams

The motion \_\_\_\_\_.

## Chapter 500: Benefits Program Plans

# 520.010 Benefit Programs

Bd. Min. 4-10-15; Revised 6-25-15.

- A. Introduction** – The University's benefits include the medical, dental, long term disability plans and various other insurance benefits available to faculty and staff, retirees, former employees, and their dependents (hereafter “Participants”) as described in the respective benefits plan documents. The following sections of the Collected Rules and Regulations are being replaced by this new policy statement: Sections 500.010, 510.010, 540.010 and 550.010. The voluntary and defined contribution retirement plans previously contained in Sections 530.030, 570.010, 580.010 and 590.010 of the Collected Rules and Regulations are being replaced by this new policy statement. However, the University's Retirement, Disability and Death Benefit Plan contained in Section 530.010 of the Collected Rules and Regulations is not being replaced or otherwise affected by this policy statement. The cost for the covered benefit plans, various other insurance benefits and the covered voluntary and defined contribution retirement plans are funded with contributions by the University and contributions and/or premiums paid by Participants. The University determines the contribution and premium amounts on an annual basis considering the costs required to provide and administer the benefits. The University also provides other benefits programs on a voluntary participation basis including educational assistance, employee assistance program, and leave benefits to support the work-life balance and other needs of eligible Participants. Together, all of these benefits are considered the Total Rewards offered by the University. This benefits policy provides direction for the provision, selection and administration of the covered benefits programs.
- B. Objectives** – It is the University's intention to provide competitive benefits programs that are valued by current and prospective faculty and staff. The definitions pertaining to benefit eligibility are contained in Section 320.050 of the Collected Rules and Regulations or in the respective benefit plan documents.
- C. Faculty, Staff and Retiree Involvement** – An advisory committee, appointed by the Associate Vice President and Chief Human Resources Officer (“CHRO”), shall serve in an advisory capacity in matters related to benefits programs and in the treatment of pay and benefits as interrelated parts of the University's overall Total Rewards. The advisory committee shall be comprised of at least 12 members. Committee membership shall consist of a faculty and a staff member from each campus, a hospital representative and a retiree representative appointed by the CHRO from nominations by the campuses, retiree associations and self-nominations. The CHRO may appoint additional at large members and the Committee Chair at his/her discretion. In making the committee appointments the CHRO will strive to appoint members

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to represent the various University constituencies. The Committee may study, consider and make recommendations to the CHRO regarding proposed revisions to, modifications of, additions to, or deletions from benefits programs covered by this policy statement. This advisory role does not include the selection or management of vendors, plan investments or other administrative responsibilities; however, members may provide input on program design as related to the needs of Participants, provide feedback on communication and education, and advise in other areas.

**D. University Financial Support of Benefits Programs** – The University will contribute to the cost of the covered benefit programs (medical, dental, disability, and life) as well as covered voluntary and defined contribution retirement plans and leave programs. The University may develop, administer and support other benefits programs that are not contributed to by the University but that provide competitive, affordable and accessible programs valued by faculty and staff.

**E. Responsibilities and Authorities**

1. The Board of Curators hereby delegates management of these covered benefits including, without limitation, overall financial management, cost and administration, plan design, and selection of vendors to the President of the University. For purposes of the preceding sentence, the term “plan design” shall include calendar year deductibles, coinsurance, Participant contributions or premiums, the University's and/or Participant's contribution percentages, copays, covered charges, covered services, out-of-pocket maximums and exclusions, but shall not include any modification of ~~the University's and/or Participant's contribution percentages~~, eligibility requirements, or vesting requirements. The President may further re-delegate all or a portion of these delegated management responsibilities at his/her discretion in the manner, and documented in accordance with, applicable University policies.
2. The Board of Curators hereby delegates to the President the authority to amend the plan documents for these covered benefits when such amendments are required by law, as determined by the General Counsel.
3. For all other proposed amendments to the plan documents for these covered benefits other than the foregoing delegated management responsibilities described in Section 520.010.E.1. above and the foregoing delegated authority for amendments required by law described in Section 520.010.E.2. above, the Board of Curators hereby delegates to the President the authority to amend the plan documents for these covered benefits; provided, however that such amendments shall be provided to the Board of Curators so that it has an opportunity to reject any such amendments prior to their effective date.
4. Under the direction of the Vice President the covered benefits programs will be audited and/or evaluated as appropriate to ensure efficient and effective administration, service and pricing. An annual benefits report will be provided to the Board of Curators and will include:
  - a. Any action taken pursuant to the authority delegated hereby including, but not limited to, changes in the University's cost of and contribution to the covered benefit plans and/or the

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- individual Participant's cost of and contributions to the covered benefits plans;
- b. Current trends and developments in the strategic direction of Total Rewards both within higher education and in the market as a whole (market review);
  - c. A comparative peer analysis of the University's benefits;
  - d. The University's strategic direction in regard to ensuring a competitive benefits offering; and
  - e. The financial status and projected financial impact of the benefits programs; and other data related to the programs.



## Chapter 500: Benefits Program Plans

# 520.010 Benefit Programs

Bd. Min. 4-10-15; Revised 6-25-15; Revised \_\_\_\_\_.

- A. Introduction** – The University's benefits include the medical, dental, long term disability plans and various other insurance benefits available to faculty and staff, retirees, former employees, and their dependents (hereafter “Participants”) as described in the respective benefits plan documents. The following sections of the Collected Rules and Regulations are being replaced by this new policy statement: Sections 500.010, 510.010, 540.010 and 550.010. The voluntary and defined contribution retirement plans previously contained in Sections 530.030, 570.010, 580.010 and 590.010 of the Collected Rules and Regulations are being replaced by this new policy statement. However, the University's Retirement, Disability and Death Benefit Plan contained in Section 530.010 of the Collected Rules and Regulations is not being replaced or otherwise affected by this policy statement. The cost for the covered benefit plans, various other insurance benefits and the covered voluntary and defined contribution retirement plans are funded with contributions by the University and contributions and/or premiums paid by Participants. The University determines the contribution and premium amounts on an annual basis considering the costs required to provide and administer the benefits. The University also provides other benefits programs on a voluntary participation basis including educational assistance, employee assistance program, and leave benefits to support the work-life balance and other needs of eligible Participants. Together, all of these benefits are considered the Total Rewards offered by the University. This benefits policy provides direction for the provision, selection and administration of the covered benefits programs.
- B. Objectives** – It is the University's intention to provide competitive benefits programs that are valued by current and prospective faculty and staff. The definitions pertaining to benefit eligibility are contained in Section 320.050 of the Collected Rules and Regulations or in the respective benefit plan documents.
- C. Faculty, Staff and Retiree Involvement** – An advisory committee, appointed by the Associate Vice President and Chief Human Resources Officer (“CHRO”), shall serve in an advisory capacity in matters related to benefits programs and in the treatment of pay and benefits as interrelated parts of the University's overall Total Rewards. The advisory committee shall be comprised of at least 12 members. Committee membership shall consist of a faculty and a staff member from each campus, a hospital representative and a retiree representative appointed by the CHRO from nominations by the campuses, retiree associations and self-nominations. The CHRO may appoint additional at large members and the Committee Chair at his/her discretion. In making the committee appointments the CHRO will strive to appoint members

to represent the various University constituencies. The Committee may study, consider and make recommendations to the CHRO regarding proposed revisions to, modifications of, additions to, or deletions from benefits programs covered by this policy statement. This advisory role does not include the selection or management of vendors, plan investments or other administrative responsibilities; however, members may provide input on program design as related to the needs of Participants, provide feedback on communication and education, and advise in other areas.

**D. University Financial Support of Benefits Programs** – The University will contribute to the cost of the covered benefit programs (medical, dental, disability, and life) as well as covered voluntary and defined contribution retirement plans and leave programs. The University may develop, administer and support other benefits programs that are not contributed to by the University but that provide competitive, affordable and accessible programs valued by faculty and staff.

**E. Responsibilities and Authorities**

1. The Board of Curators hereby delegates management of these covered benefits including, without limitation, overall financial management, cost and administration, plan design, and selection of vendors to the President of the University. For purposes of the preceding sentence, the term “plan design” shall include calendar year deductibles, coinsurance, Participant contributions or premiums, the University's and/or Participant's contribution percentages, copays, covered charges, covered services, out-of-pocket maximums and exclusions, but shall not include any modification of eligibility requirements, or vesting requirements. The President may further re-delegate all or a portion of these delegated management responsibilities at his/her discretion in the manner, and documented in accordance with, applicable University policies.
2. The Board of Curators hereby delegates to the President the authority to amend the plan documents for these covered benefits when such amendments are required by law, as determined by the General Counsel.
3. For all other proposed amendments to the plan documents for these covered benefits other than the foregoing delegated management responsibilities described in Section 520.010.E.1. above and the foregoing delegated authority for amendments required by law described in Section 520.010.E.2. above, the Board of Curators hereby delegates to the President the authority to amend the plan documents for these covered benefits; provided, however that such amendments shall be provided to the Board of Curators so that it has an opportunity to reject any such amendments prior to their effective date.
4. Under the direction of the Vice President the covered benefits programs will be audited and/or evaluated as appropriate to ensure efficient and effective administration, service and pricing. An annual benefits report will be provided to the Board of Curators and will include:
  - a. Any action taken pursuant to the authority delegated hereby including, but not limited to, changes in the University's cost of and contribution to the covered benefit plans and/or the individual Participant's cost of and contributions to the covered

- benefits plans;
- b. Current trends and developments in the strategic direction of Total Rewards both within higher education and in the market as a whole (market review);
- c. A comparative peer analysis of the University's benefits;
- d. The University's strategic direction in regard to ensuring a competitive benefits offering; and
- e. The financial status and projected financial impact of the benefits programs; and other data related to the programs.

## Replacement of Gender Specific Terms in Collected Rules and Regulations

### Executive Summary

The proposed action is to provide university administration the authority to replace gender specific terms in the Collected Rules and Regulations with gender neutral terms. This will modernize the Collected Rules and Regulations in keeping with current legislative and rulemaking practices, including those of the Missouri General Assembly, which routinely replaces gender-specific statutory terms with gender neutral terms. University administration would be authorized to identify and replace gender specific terms, subject to review and approval by the Office of the General Counsel that the replacements do not alter the substantive legal or policy effect of the rules and regulations.

No. 4

Recommended Action – Replacement of Gender Specific Terms in Collected Rules and Regulations

It was recommended by Associate Vice President and Chief Human Resources Officer Marsha Fischer, endorsed by President Choi, recommended by the Compensation and Human Resources Committee, moved by Curator \_\_\_\_\_, and seconded by Curator \_\_\_\_\_, that the following actions be approved:

that the President is authorized to identify and replace gender specific terms in the Collected Rules and Regulations with gender neutral terms, subject to review and approval by the Office of the General Counsel that the replacements do not alter the substantive legal or policy effect of the rules and regulations.

Roll call vote of the Committee:	YES	NO
Curator Chatman		
Curator Layman		
Curator Snowden		
Curator Williams		

The motion \_\_\_\_\_.

Roll call vote of the Board:	YES	NO
Curator Brncic		
Curator Chatman		
Curator Graham		
Curator Hoberock		
Curator Layman		
Curator Snowden		
Curator Steelman		
Curator Wenneker		
Curator Williams		

The motion \_\_\_\_\_.

**COMBINED ACADEMIC, STUDENT AFFAIRS,  
RESEARCH AND ECONOMIC DEVELOPMENT  
& GOVERNANCE, COMPENSATION AND  
HUMAN RESOURCES**

# AMENDMENTS TO COLLECTED RULES AND REGULATIONS (CRR) TO COMPLY WITH NEW FEDERAL REGULATIONS

## Executive Summary

On May 6, 2020, the Department of Education issued final regulations setting out required procedures for grievances brought under Title IX. The University must implement them by August 14, 2020. A University-wide Title IX Task Force has drafted revisions to the University's existing CRRs to comply with the new regulations. The revised CRRs have been vetted with the President, Chancellors, Vice Chancellors for Student Affairs, Title IX Coordinators, Intercampus Faculty Council, Intercampus Staff Advisory Council, Intercampus Student Council, Administrative Management Council, Diversity Equity and Inclusion Officers, and the Human Resources Council. Additionally, the proposed revisions have been reviewed and approved by outside counsel with Title IX expertise. The revisions now come to the Board for approval. Included in these materials is a summary of the revised rules, red-lined copies of the rules showing the revisions, and clean copies of the proposed new rules. Also included is a proposed action item which approves the revisions and gives the President authority for the next 12 months to make further revisions without Board approval, provided he gives the Board advance notice and adequate time to object.

Title IX was enacted in 1972 as a follow-up to the Civil Rights Act of 1964, and to subsequent statutes and executive orders, all of which were intended to prohibit various forms of discrimination. Title IX was designed to address a specific gap in coverage of existing laws by prohibiting discrimination on the basis of sex in federally funded educational programs.

The language of Title IX itself is short and straight forward. It states:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.” [20 U.S.C. 1681]

Subsequent to its enactment, regulations were promulgated under Title IX that required “recipients” of federal funding to adopt and publish grievance procedures for the prompt and equitable resolution of complaints of discrimination on the basis of sex. Later, colleges and universities, including the University of Missouri, structured their Title IX grievance procedures to comply with the 2011 Dear Colleague Letter and the 2014 Question & Answer document, both of which were guidance documents issued under the Obama Administration.

On September 22, 2017, the Trump administration withdrew those guidance documents and indicated that it would be proposing new regulations to govern Title IX. New regulations were proposed on November 29, 2018, and a 60-day public comment period followed. During the public comment period, over 100,000 comments were received.

While the public comments were being considered, the University formed a Title IX Task Force to prepare for the new regulations. The Task Force was chaired by University Counsel Kathy Bunn and included VP Fischer, the Title IX Coordinators from the System and each university,

and a representative chosen by each of the Intercampus Faculty Council (IFC), the Intercampus Staff Advisory Council (ISAC), and the Intercampus Student Council (ISC). The Task Force members were:

**Kathy Bunn (Chair)**, University Counsel, UM  
**Inya Baiye**, Assistant Vice Chancellor for Inclusive Excellence, MU  
**Elizabeth Beal**, Manager, Business Administration, Student Affairs, MU  
**Dana Beteet Daniels**, Title IX Administrator, Chief Equity Officer, UMSL  
**Marsha Fischer**, Associate Vice President for Human Resources, Chief Human Resources Officer, Interim Chief Equal Opportunity Officer, UM  
**Andy Hayes**, Assistant Vice Chancellor for Civil Rights and Title IX, MU  
**Cecily Hicks**, UM Deputy Title IX Coordinator and Equity Officer, UM  
**Lacy Lugo**, HR Compliance Manager, UMHC  
**Dea Marx**, ProRoos Program Director, Senior Student Services Coordinator, UMKC  
**Jason W. Miller**, Director of HRIS & Employee Relations, UMHC  
**Neil Outar**, Chief Diversity Officer, MS&T  
**Pamela Stuerke**, Associate Professor, Accounting, MU  
**Avery Welker**, Graduate Student, former Student Representative to the Board of Curators, MS&T, UM  
**Sybil Wyatt**, Title IX Coordinator, ADA Coordinator, and Director of the Office of Affirmative Action, UMKC

The Task Force received important support from **Brandy Stockton**, Executive Assistant, Human Resources, UM; **Jenelle Beavers**, University Counsel, UM; and **Mark Van Zandt**, University Counsel, UM.

On May 6, 2020, the Department of Education issued the final regulations, totaling over 2,000 pages of regulations and related materials, with an effective date of August 14, 2020. The Title IX Task Force drafted revisions to Chapter 600 of the CRRs relating to the University's policy on equal employment/educational opportunity and nondiscrimination. Most of the revisions appear in CRR 600.030 relating to Title IX grievances, although minor changes have been made in other Chapter 600 rules regarding other forms of discrimination (often referred to as "equity" proceedings). A summary of the changes follows.



## SUMMARY OF THE PROPOSED EQUITY AND TITLE IX CRRs

### I. Overview

#### A. The current CRRs are the following:

- i. 600.010: Equal Employment/ Educational Opportunity and Nondiscrimination Policy
- ii. 600.020: Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/ Education Policy
- iii. 600.030: Equity Resolution Process for Complaints of Discrimination, Harassment and Sexual Misconduct against a Student and Student Organization
- iv. 600.040: Equity Resolution Process for Complaints of Discrimination, Harassment and Sexual Misconduct against a Faculty Member
- v. 600.050: Equity Resolution Process for Complaints of Discrimination, Harassment and Sexual Misconduct against a Staff Member
- vi. 600.060: Equity Resolution Process for Complaints of Discrimination, Harassment and Sexual Misconduct against the University

#### B. The new proposed CRRs are the following:

- i. 600.010: Equal Employment/ Education Opportunity and Nondiscrimination Policy
- ii. 600.020: Sexual Harassment under Title IX Policy
- iii. 600.030: Resolution Process for Resolving Complaints of Sexual Harassment under Title IX
- iv. 600.040: Equity Resolution Process for Resolving Complaints of Discrimination and Harassment Against a Faculty Member, a Student or a Student Organization
- v. 600.050: Equity Resolution Process for Resolving Complaints of Discrimination and Harassment Against a Staff Member or the University

### II. Comparison of Selected Revisions to the CRRs:

- A. **Title IX Process for Complaints of Sexual Harassment against All Respondents.** Under our current CRRs, for Equity and Title IX complaints against a student/ student organization or Faculty Member, the process provides for a hearing before a hearing panel. The process for Title IX complaints against staff members does not provide for a hearing before a hearing panel.

Under the proposed CRR 600.030, a hearing with cross-examination before a hearing panel is required, without regard to whether the complaint alleging sexual harassment is against a student/ student organization, a Faculty Member, a Staff Member, or the University. (600.030)

**Rationale:** *The new Title IX Regulations require a live hearing for all complaints alleging sexual harassment under Title IX for all employees and students.*

- B. **Jurisdiction under CRR 600.030.** Under the current CRRs, the University’s jurisdiction was generally limited to conduct occurring on the University’s premises or at University-sponsored/University-supervised functions; however, the University could also take action for off-campus conduct 1) in order to protect the physical safety of students and other members of the University community, or 2) if there were effects of the conduct that interfered with or limited any person’s ability to participate in a University education program, activity or employment.

Under the proposed CRR 600.030, the University’s jurisdiction for an action under Title IX is limited to conduct which occurs in an education program or activity of the University against a person in the United States. Education program or activity includes locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the conduct occurs, and includes any building owned or controlled by a student organization that is officially recognized by the University. The University’s Title IX jurisdiction does not extend to sexual harassment that occurs outside the United States, even if that conduct occurs in a University education program or activity. (600.030(B))

The University’s jurisdiction under the Equity policies will continue to extend to off-campus conduct where it is determined that action is necessary 1) in order to protect the physical safety of students and other members of the University community, or 2) there are effects of the conduct that interfere with a person’s ability to participate in an education program or activity, 3) if the conduct is related to a Faculty member’s fitness or performance in the professional capacity of teacher or researcher (600.040 only), or 4) if the conduct occurs when the Faculty or staff member is serving in the role of a University employee. (600.040 (B) and 600.050 (B))

**Rationale:** *The Title IX process is limited to Sexual Harassment as defined under the Title IX regulations, and is limited to conduct in an education program or activity against a person in the United States. Under the Title IX regulations, the Department of Education stressed that Title IX legislation expressly states that “[N]o person **in the United States** shall...” (emphasis added); the new regulations recognize the canon of statutory construction recognized by the Courts that “Congress ordinarily intends its statutes to have domestic, not extraterritorial, application.”*

- C. **Scope of CRR 600.010.** Under current CRR 600.010, the Equity process applies to all discrimination and harassment other than sex discrimination, which falls under CRR 600.020.

Under proposed CRR 600.010, the Equity process applies to all discrimination and harassment other than sexual harassment that falls within the definition of sexual harassment under Title IX (600.020); Sex Discrimination falls within the scope of proposed 600.010 (other than Sexual Harassment as defined under Title IX) and includes workplace sexual harassment, sex discrimination that does not involve conduct of a sexual nature, and sexual harassment that is not in an education program or activity of the University or which occurs outside of the United States, but nonetheless has an effect that interferes with or limits a person's ability to participate in or benefit from the University's programs, activities, or employment.

***Rationale:** The Title IX process requiring a hearing with cross-examination is limited to conduct that falls within the definition of sexual harassment under the Title IX regulations; however, other forms of discrimination and harassment, including sex discrimination and harassment that do not fall within the Title IX process because the conduct is not in an education program or activity, or occurring in the United States, still require a level of due process, but not that required under the new regulations.*

- D. **Hearing under Proposed CRR 600.030.** Under the current CRRs, for complaints against students and Faculty members, a hearing is provided, with a decision-maker consisting of 3 members from the University's Hearing Panel Pool, with one member of the hearing panel designated as the hearing panel chair; that individual presides over the hearing; questions of the relevancy and admissibility of evidence or testimony are determined by the chair, unless referred to the entire hearing panel. Staff respondents do not have access to the hearing process.

Under the proposed CRR 600.030, for Title IX complaints alleging sexual harassment in an education program or activity occurring against a person in the United States, a hearing with a hearing panel is provided; the hearing panel consists of a Hearing Officer and two additional hearing panel members selected from the hearing panel pool. The Hearing Officer will preside over the hearing, and all questions of relevancy and admissibility of the evidence or testimony will be determined by the Hearing Officer. The Hearing Officer will not be selected from the hearing panel pool, but will be a specially trained individual. (600.030 (Q)(2)) We are recommending that the University retain a trained individual such as a retired Judge to act as the Hearing Officer in all 600.030 hearings.

For Equity complaints against students and Faculty members, the process remains the same as the current process (hearing before a panel of three faculty and staff) (600.040) and staff (administrative resolution.) (600.050)

***Rationale:*** *Under the Title IX Regulations, a live hearing before a hearing panel is required. The Regulations also provide that the decision-maker in a hearing must objectively evaluate all relevant evidence including inculpatory and exculpatory evidence; the decision-maker is required to assess each question asked of a party or witness before it is answered to determine if it is relevant, and if a question is excluded, the decision-maker must provide the parties with an explanation of the basis for excluding the question. The decision-maker must be trained on how to determine what questions and evidence are relevant, and must be able to determine the weight or credibility given to each piece of evidence. Additionally, the decision-maker must make additional decisions regarding excluding evidence of the complainant's prior sexual behavior unless the evidence is being offered to prove that someone other than the respondent committed the conduct alleged by the complainant; evidence concerning specific incidents of the complainant's prior sexual behavior with regard to the respondent must be excluded unless offered to prove consent, character evidence must be excluded unless it is relevant, evidence of a pattern of misconduct must be excluded unless it is relevant, and medical information of a party or privileged information must be excluded unless there is express consent or waiver.*

- E. **Cross-Examination.** Under the current CRRs, the parties are not permitted to directly question or cross-examine each other, but must submit such questions to the hearing panel chair, who may ask the questions if deemed relevant and appropriate.

Under the proposed CRR 600.030, the parties are required to have advisors, who may or may not be attorneys, to conduct all cross-examination on behalf of the parties. The advisors are permitted to directly cross-examine the parties, and may directly question/ cross-examine witnesses. The parties may not directly cross-examine each other. (600.030(K)(2))

In Equity matters where a hearing is provided (student and faculty respondents), the parties must submit questions directed to each other through the hearing panel chair.

***Rationale:*** *Under the Title IX regulations, a live hearing with cross-examination is required. All cross-examination, however, must be conducted by a party's advisor, who may or may not be an attorney. Cross-examination through advisors is required for the purpose of conducting adversarial cross-examination that ferrets out the truth of the sexual harassment allegations.*

- F. **Advisors.** Under the current CRRs, the parties are permitted to have advisors at all stages of the Title IX process; however, these advisors may not directly participate in the process, but may only work with their advisee. The University will provide the parties with advisors, at their request, who are University administrators, staff and faculty trained on the University's Title IX process.

Under the proposed CRR 600.030, the parties are required to have advisors to directly conduct cross-examination for the parties at the hearing. If a party does not have an advisor of their own choice at a hearing, the University is required to provide an advisor for that party at no cost to the party; the advisor provided by the University may or may not be an attorney. (600.030 (K)(2)) We are recommending that the University retain attorneys to act as advisors when the University must provide them to parties.

In Equity matters, the University may provide student parties with an advisor if requested; the advisor may not directly participate in the proceedings.

***Rationale:** Under the Title IX regulations, the University is required to provide an advisor for any party that does not have an advisor of their own choice at the hearing for the purpose of conducting cross-examination; the advisor provided by the University may or may not be an attorney, but must be provided at no cost to the party.*

- G. **Formal Complaints.** Under the current CRRs, the parties are not required to participate in the Title IX process, but the University may still conduct an investigation and move forward to a hearing. If a party or witness fails to participate in a hearing, any statements made by that party to the investigator or other witnesses may still be used as evidence.

Under the proposed CRR 600.030, the parties (and witnesses) may not be compelled to participate in the Title IX process. However, before a formal investigation can be initiated, a complainant is required to file a Formal Complaint, which is a document signed by the complainant alleging sexual harassment against a respondent and requesting a formal investigation. The Title IX Coordinator may sign a Formal Complaint in certain circumstances. At a hearing, if a party or witness fails to submit to cross-examination, whether by failing to appear or refusing to answer questions, any statements made by that party or witness may not be used in making any determination of responsibility; however, the hearing panel may not draw any inference from the fact that the party or witness did not appear or failed to answer questions. (600.030(F))

***Rationale:** The Title IX regulations recognize that complainants may not always want to move forward with an investigation and hearing, and thus, in order to move forward, there must be a specific document from the complainant requesting that the University conduct an investigation. The Title IX*

*Coordinator may sign a Formal Complaint where the Coordinator has determined that a failure to conduct an investigation would constitute deliberate indifference by the University. Further, parties and witnesses cannot be compelled, under the Title IX regulations, to appear at a hearing. However, statements by a party or witness will not be permitted to be used in making a determination of responsibility by the Hearing Panel unless the party or witness submitted to cross-examination during the hearing; however, the Hearing Panel may not draw any inference from the failure of a party or witness to participate in the process.*

- H. **Supportive Measures.** Under the current CRRs, the parties are offered interim remedies, such as adjusting course schedules, adjusting work schedules, and suspending respondents on an interim basis if the Title IX Coordinator, in their sole discretion, determines that the presence of the respondent on campus would seriously disrupt the University or constitute a danger to the health, safety or welfare of members of the University community.

Under the proposed CRR 600.030, the parties are offered supportive measures, which are non-disciplinary, non-punitive individualized services offered as appropriate and as available, which are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party. Emergency removal of a respondent is available if the Title IX Coordinator determines, after conducting an individualized safety and risk analysis, that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, justifies removal. An emergency removal is subject to immediate challenge by the respondent by seeking review by the Emergency Removal Appeal Individual/ Committee. An administrative leave for an employee is not an Emergency Removal. (600.030 (H)).

***Rationale:*** *Under the Title IX Regulations, supportive measures must be offered to any complainant, even if the complainant does not seek to file a Formal Complaint; supportive measures must be equally available to both parties if a Formal Complaint has been filed, but neither party may be unreasonably burdened by such supportive measures. An Emergency Removal under Title IX is only available if there is an individualized assessment that the respondent poses an immediate threat to the physical health or safety of someone in the University community, and an immediate challenge/ review of the decision to remove a respondent under this provision must be available to the respondent.*

- I. **Academic Medical Center.** Under the current CRRs, the Academic Medical Center (MU Health) is required to provide the same process to parties as the entire University, even where patients are involved.

Under the proposed CRR 600.030, the Academic Medical Center is not required to provide a live hearing with cross-examination for allegations of sexual harassment occurring in an education program or activity against a person in the United States, but instead allows the parties to meet with a decision-maker, submit questions for the other party through the decision-maker, and provide the names of witnesses and documentary evidence to the decision-maker. Upon reviewing the investigative report and meeting with the parties, the decision-maker will provide their determination as to responsibility of the respondent for violation of University policy, and where applicable, will determine sanctions and remedial actions. (600.030(R))

***Rationale:** The Title IX regulations permit Academic Medical Centers to opt out of the Title IX live hearing with cross-examination process, and follow the process for elementary and secondary schools, which is where a single decision-maker meets with the parties, and the parties provide that decision-maker with questions for each other, lists of witnesses and documentary evidence.*

- J. **Mandated Reporters.** Under the current CRRs, employees of the University are mandated reporters for conduct that may or does constitute sex discrimination, sexual harassment and sexual misconduct.

Under proposed 600.020, employees remain mandated reporters for all conduct that may or does constitute sexual harassment as defined in the Title IX regulations. Under proposed 600.010, employees are now mandated reporters for all conduct that may or does constitute any type of discrimination or harassment.

***Rationale:** Mandated reporting is no longer required under the Title IX regulations for all employees. However, the Title IX Coordinators have indicated that mandated reporting is the most successful method to get reports of sexual harassment. As a result, we are recommending that we not only continue to require employees to be mandated reporters for sexual harassment under Title IX, but that employees become mandated reporters for all forms of discrimination or harassment.*

- K. **CRR 600.060.** CRR 600.060 sets forth the current process for resolving complaints of discrimination and harassment against the University.

We are requesting that CRR 600.060 be withdrawn at this time.

***Rationale:** Current CRR 600.060 is no longer needed as this process has been included in proposed CRR 600.050.*

No. 1

Recommended Action – Amendments to Collected Rules and Regulations (CRR) to Comply with New Federal Regulations

It was recommended by President Choi, moved by Curator \_\_\_\_\_ and seconded by Curator \_\_\_\_\_, that:

University of Missouri Collected Rules and Regulations 600.010, 600.020, 600.030, 600.040, 600.050, and 600.060 are revised as set forth in the attached documents, said revisions to become effective August 14, 2020; and further that

From today until July 28, 2021, the President shall have the authority to make non-substantive revisions to these rules, including changing the effective date of them, provided that any such revisions are consistent with the intent of the rules and do not become effective until after the Board has received adequate notice and time to express any objections.

Roll call vote of the Board: YES NO

Curator Brncic  
Curator Chatman  
Curator Graham  
Curator Hoberock  
Curator Layman  
Curator Snowden  
Curator Steelman  
Curator Wenneker  
Curator Williams



**600.010 Equal Employment/Educational Opportunity and Nondiscrimination Policy**

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

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

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

The University's Nondiscrimination policies apply to any phase of its employment process, any phase of its admission or financial aid programs, other aspects of its educational programs or activities, and instances occurring in other settings, including off-campus, if there are effects of the conduct that interfere with or limit any person's ability to participate in or benefit from the University's educational programs, activities or employment. Notices of Nondiscrimination are posted online and in physical locations for the UM System and each of the campusesUniversities in the System.

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

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

~~1. Conduct that constitutes sex discrimination (including discrimination on the basis of sex, pregnancy, gender identity, and gender expression), sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation is defined in Section 600.020 – Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy.~~

~~2.1. **Discrimination or Harassment.** Conduct that is based upon an individual's race, color, national origin, ancestry, religion, sexual orientation, age, disability, protected veteran status, including sex discrimination as defined below, or any other status protected by applicable state or federal law that:~~

~~a. Adversely affects a term or condition of employment, education, living environment or participation in a University activity; or~~

~~b. Creates a hostile environment by being sufficiently severe or pervasive and objectively offensive that it interferes with, limits, or denies the ability to participate in or benefit from the University's educational programs, activities, or employment; or~~

~~2. **Sex Discrimination.** Sex discrimination is conduct that is based upon an individual's sex, pregnancy, gender identity, or gender expression that adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University education program or activity. Sex discrimination under this policy includes the following:~~

~~a. Sexual Harassment, as defined in CRR 600.020, is governed exclusively by CRR 600.020 and CRR 600.030. All other forms of sex-based discrimination are governed by this policy, including sex-based harassment that does not rise to the level of Sexual Harassment as defined in CRR 600.020, and conduct that meets the substantive definition of Sexual Harassment as defined in CRR 600.020 that occurs outside the University's education programs, activities, or employment, or occurs outside the United States, but nonetheless has an effect that interferes with or limits any person's ability to participate in or benefit from the University's education programs, activities or employment;~~

~~b. Workplace sexual harassment: Conduct that creates a hostile environment by being sufficiently severe or pervasive and objectively offensive that it interferes with, limits or denies the ability to participate in or benefit from the University's education programs, activities or employment;~~

~~c. Sex discrimination that does not involve conduct of a sexual nature.~~

~~3. **Consent to Sexual Activity.** Consent to sexual activity is knowing and voluntary. Consent to sexual activity requires of all involved persons a conscious and voluntary agreement to engage in sexual activity. Each person engaged in the sexual activity must have met the legal age of consent. It is the responsibility of each person to ensure they have the consent of all others engaged in the sexual activity. Consent must be obtained at the time of the specific activity and can be~~

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withdrawn at any time. Consent, lack of consent, or withdrawal of consent may be communicated by words or non-verbal acts.

Someone who is incapacitated cannot consent. Silence or absence of resistance does not establish consent. The existence of a dating relationship or past sexual relations between the Parties involved should never by itself be assumed to be an indicator of consent. Further, consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion and force, or threat of either, invalidates consent.

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

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

- a. Lack of awareness of circumstances or surroundings (e.g., an inability to understand, either temporarily or permanently, the who, what, where, how and/or why of the circumstances; blackout state)
- b. Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
- c. Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
- d. Physical symptoms (e.g., vomiting or incontinence)

**C. Equity Officers.** Duties and responsibilities of the University's Equity Officers include monitoring and oversight of overall implementation and compliance with the University's Equal Employment/Educational Opportunity and Nondiscrimination Policy, including coordination of training, education, communications and coordination with the equity resolution processes for faculty, staff, students and other members of the University community and investigation of complaints of discrimination, harassment, and retaliation.

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

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**University of Missouri System and University of Missouri-Columbia**

Andrea Hayes, J.D.

~~Assistant Vice Chancellor for Civil Rights & Title IX~~

~~Title IX Coordinator~~ Equity Officer

**Address:**

University of Missouri

202 Jesse Hall

University of Missouri

Columbia, MO 65211

**Telephone:** (573) 882-2824

**Email:** hayesas@missouri.edu

civilrights.missouri.edu

**University of Missouri-Kansas City**

~~Mikah K. Thompson, J.D.~~

~~Director of Affirmative Action~~

~~Title IX Coordinator~~ Dr. Sybil Wyatt, J.D., Ed.D.

Equity Officer

**Address:**

Administrative Center Room 212

5115 Oak Street, Room 212

Kansas City, MO 641129

**Telephone:** 816-235-6910

**Email:** ~~thompsonmikah~~wyattsb@umkc.edu

www.umkc.edu/titleix

**Missouri University of Science and Technology**

Neil A. Outar, J.D.

~~Interim Chief Diversity~~ Equity Officer

~~Title IX Coordinator~~

**Address:**

605 W. 11<sup>th</sup> Street

400B

203 Centennial Hall

300 W 12<sup>th</sup> St.

Rolla, MO 65409

**Telephone:** 573-341-6038

**Email:** naoutar@mst.edu

titleix.mst.edu

**University of Missouri-St. Louis**

Dana Beteet Daniels

~~Title IX Coordinator~~

~~Senior Human Resources Consultant~~

**Address:**

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~~211 Arts Administration Building~~  
~~System Equity Officer~~

**Address:**  
~~One University Boulevard~~  
~~220 Woods Hall~~  
St. Louis, MO 63121  
**Telephone:** 314-516-4538  
**Email:** [dana@umsl.edu](mailto:dana@umsl.edu)  
[www.umsl.edu/title-ix](http://www.umsl.edu/title-ix)

**University of Missouri Health System**

Jason Miller, MBA, ~~SPHR~~, SHRM-SCP  
~~Director of HRIS & Employee Relations~~  
~~Title IX Coordinator~~

Equity Officer

**Address:**  
One Hospital Drive  
Columbia, MO 65212  
**Telephone:** 573-882-8187  
**Email:** [millerjaw@health.missouri.edu](mailto:millerjaw@health.missouri.edu)

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

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

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

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

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

~~1. Section 600.030 – Equity Resolution Process for Resolving Complaints of Discrimination, Harassment and Sexual Misconduct Against a Student or Student Organization~~

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- ~~2.1.~~ Section 600.040 – Equity Resolution Process for Resolving Complaints of Discrimination, ~~and~~ Harassment ~~and Sexual Misconduct~~ Against a Faculty Member ~~or Student or Student Organization~~
- ~~3.~~ Section 600.050 – Equity Resolution Process for Resolving Complaints of Discrimination, ~~and~~ Harassment ~~and Sexual Misconduct~~ Against a Staff Member
- ~~4.2.~~ Section 600.060 – Equity Resolution Process for Resolving Complaints of Discrimination ~~and Harassment Against~~ Or the University of Missouri

**E. Reporting Discrimination or Harassment**

- 1. Students, Employees, Volunteers, and Visitors.** Students, employees, volunteers, and visitors of the University who have experienced any form of discrimination or harassment are encouraged to report the incident promptly to the appropriate Equity Officer listed in Section 600.010.C above. In addition, students, volunteers, and visitors of the University who have witnessed such conduct are encouraged to report the incident promptly to the appropriate Equity Officer. The University will respond to all such reports pursuant to one of its Title IX or Equity Resolution Processes (see Sections 600.030, 600.040, 600.050).
- 2. Mandated Reporters.** Any employee of the University, except as noted below, who becomes aware of discrimination or harassment as defined in this policy is a Mandated Reporter, regardless of whether the recipient of the behavior is a student, employee, volunteer, ~~and~~or visitor of the University.
- 3. Employees with a Legal Obligation or Privilege of Confidentiality.** Employees with a legal obligation or privilege of confidentiality (including health care providers, counselors, lawyers, and their associated staff) are not considered Mandated Reporters and are not required to report when the information is learned in the course of a confidential communication. This also means that the employee seeking the exemption is employed by the University for that specific purpose and was acting in that capacity when the confidential disclosure was made. If the information is not learned in the course of confidential communication (for example, behavior is observed in class) then the employee has the same obligation as a Mandated Reporter.
- 4. Designated Confidential Employees.** Consistent with the law and upon approval from the Office of the General Counsel, a University may also designate non-professional counselors or advocates as confidential for purposes of this policy and, therefore, excluded from the definition of Mandated Reporters.
- 5. Required Reporting.** A Mandated Reporter is required to promptly report the information to the appropriate Equity Officer. A mandated report must be made regardless of whether the person reporting the information to the Mandated Reporter requests confidentiality and regardless of how the Mandated Reporter becomes aware of the offensive behavior (personal observation, direct information from the subject of the behavior, indirect information from a third party, etc.). If the Complainant requests confidentiality or that a report not be pursued, the Mandated Reporter should warn the Complainant that, at this

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stage in the process, the Mandated Reporter must report all known information to the Equity Officer.

6. **Content of Mandated Report to Equity Officer.** Mandated Reporters must report all details that they possess. This includes names of the Parties, if known, and all other information in the Mandated Reporter's possession.

7. **Non-compliance.** Failure to comply with this policy can result in disciplinary action under applicable University policies. Employees also are cautioned that non-compliance with this policy may increase their risk of personal liability. Further, an individual who fails to report as required under this policy may be determined to be ineligible for defense or protection under Section 490.010 of the University's Collected Rules and Regulations for any associated claims, causes of action, liabilities or damages.

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

1. Retaliation is any adverse action taken against a person because of that person's participation in protected activity. The University strictly prohibits retaliation against any person for making any good faith report of discrimination, harassment, or sexual misconduct, or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of discrimination, harassment or sexual misconduct. The phrase "participation in a protected activity" includes refusal to participate in proceedings involving sex discrimination under CRRs 600.040 and 600.050. Any person who engages in such retaliation shall be subject to disciplinary action, up to and including expulsion or termination, in accordance with applicable procedures. Any person who believes they have been subjected to retaliation is encouraged to promptly notify the Equity Officer or Title IX Coordinator. The University will promptly investigate and respond to all claims of retaliation in accordance with this policy.

##### **False Reporting.**

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

2. False reporting is making an intentional false report or accusation in relation to this policy as opposed to a report or accusation, which, even if erroneous, is made in good faith. False reporting is a serious offense subject to appropriate disciplinary action up to and including expulsion or termination.

3. ~~Witness Intimidation or Harassment.~~ The University prohibits attempted or actual intimidation or harassment of any potential Party or witness. No individual participating in an investigation relating to a report or Complaint that a violation of this policy has occurred should, directly or through others, take any action which may interfere with the investigation. ~~The University prohibits attempts to or actual intimidation or harassment of any potential witness. Failure to adhere to these requirements may lead to disciplinary action ranging up to and including expulsion or termination.~~

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4. For situations involving alleged retaliation, false reporting, and witness intimidation or harassment, the Equity Officer will refer the matter to the appropriate University process.

G. **U.S. Department of Education – Office for Civil Rights.** Inquiries concerning discrimination in educational opportunities also may be referred to the United States Department of Education’s Office of Civil Rights. For further information on notice of nondiscrimination and for the address and phone number of the U.S. Department of Education office which serves your area—visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> or call 1-800-421-3481.

Field Code Changed

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

Office for Civil Rights  
U.S. Department of Education  
One Petticoat Lane  
1010 Walnut, 3<sup>rd</sup> Floor, Suite 320  
Kansas City, MO 64106  
Telephone: (816) 268-0550  
FAX: (816) 268-0595  
TDD: (800) 877-8339  
Email: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)

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## **600.010 Equal Employment/Educational Opportunity and Nondiscrimination Policy**

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

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

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

The University's Nondiscrimination policies apply to any phase of its employment process, any phase of its admission or financial aid programs, other aspects of its educational programs or activities, and instances occurring in other settings, including off-campus, if there are effects of the conduct that interfere with or limit any person's ability to participate in or benefit from the University's educational programs, activities or employment. Notices of Nondiscrimination are posted online and in physical locations for the UM System and each of the Universities in the System.

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

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

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

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

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

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

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

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

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

**University of Missouri System and University of Missouri-Columbia**

Andrea Hayes, J.D.

Equity Officer

**Address:**

University of Missouri

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

**University of Missouri-Kansas City**

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

**Missouri University of Science and Technology**

Neil A. Outar, J.D.  
Equity Officer  
**Address:**  
203 Centennial Hall  
  
300 W 12<sup>th</sup> St.  
  
Rolla, MO 65409  
**Telephone:** 573-341-6038  
**Email:** [naoutar@mst.edu](mailto:naoutar@mst.edu)  
[titleix.mst.edu](http://titleix.mst.edu)

**University of Missouri-St. Louis**

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

**University of Missouri Health System**

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

**Email:** [millerjaw@health.missouri.edu](mailto:millerjaw@health.missouri.edu)

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

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

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

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

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

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

**E. Reporting Discrimination or Harassment**

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

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

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

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

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

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

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

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

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

# 600.020 ~~Sex Discrimination,~~ Sexual Harassment and ~~Sexual Misconduct in~~ Education/~~Employment Policy~~ under

## Title IX

Executive Order 40, 4-8-14; Revised 6-19-14; Revised 9-22-14 by Executive Order 41. Revised 2-9-17 with an effective date of 3-1-17; Revised 7-28-20 with an effective date of 8-14-20.

- A. ~~Sex Discrimination, Sexual Harassment and Sexual Misconduct in Education.~~ The University is committed to affording equal employment and education opportunities to its employees and students, and to creating an environment free from discrimination ~~(see Section 600.010 of the Collected Rules and Regulations).~~ and harassment. In furtherance of these commitments, both University policy and applicable state and federal law, prohibit all students, employees, volunteers and visitors at the University from engaging in ~~discrimination on the basis of any protected characteristic, including sex, pregnancy, gender identity, and gender expression. In addition, University policy and the law prohibit sexual misconduct, sexual harassment, stalking on the basis of sex, dating/intimate partner violence, and sexual exploitation, as defined in Section 600.020.B. As used in this policy, the word "sex" is also inclusive of the term "gender."~~ sexual harassment in a University education program or activity against a person in the United States.

This policy applies to sexual harassment in any phase of ~~its~~ the University's employment process, any phase of its admission or financial aid programs, and all other aspects of its ~~educational~~ education programs or activities. ~~Additionally, For purposes of this policy applies to allegations of sexual misconduct, "education program or allegations of other forms of sex discrimination, as defined in Section 600.020.B., occurring in other settings, including off-campus, if there are effects of the conduct that interfere with or limit any person's ability to participate in or benefit from the University's educational programs, activities or employment. Notices of nondiscrimination are posted online and in physical locations for the UM System and each of the campuses.~~

## ~~B. Definitions~~

- ~~1. **Sex Discrimination.** Sex discrimination is conduct that is based upon an individual's sex, pregnancy, gender identity, or gender expression that adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University activity. In addition, sexual harassment, sexual misconduct, sexual exploitation, stalking on the basis of sex and dating/intimate partner violence, as further defined below, are forms of sex discrimination which are prohibited under this policy.~~



2. ~~“Sexual Harassment.”~~ Sexual harassment is defined as:

- a. ~~Unwelcome sexual advances or requests for sexual activity by a person or persons in a position of power or authority to another person; or~~
- b. ~~Other unwelcome verbal or physical conduct of a sexual nature or because of sex, pregnancy, gender identity, or gender expression when:~~

~~(1) Submission to or rejection of such conduct is used explicitly or implicitly as a condition for academic or employment decisions; or  
(2) Such conduct creates a hostile environment by being sufficiently severe or pervasive or objectively offensive that it interferes with, limits or denies the ability to participate in or benefit from the University’s educational programs, activities, or employment.~~

~~**Sexual Misconduct.** Sexual misconduct includes: 1) Nonconsensual sexual intercourse; 2) Nonconsensual sexual contact involving the sexual touching of a body part (i.e., the lips, genitals, breast, anus, groin, or buttocks of another person) or the nonconsensual sexual touching of another with one’s own genitals whether directly or through the clothing; 3) Exposing one’s genitals to another under locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which one should reasonably know that the conduct is likely to cause affront or alarm; or 4) Sexual exploitation the conduct occurs, and includes any building owned or controlled by a student organization that is officially recognized by the University. This policy and CRR 600.030 do not apply to sexual harassment that happens outside the United States, even when the conduct occurs in an education program or activity of the University.~~

## B. Definitions

1. ~~**Sexual Harassment.**~~ ~~**Stalking on the Basis of Sex.**~~ Stalking on the basis of sex is following or engaging in a course of Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
  - a. “Quid Pro Quo” - An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;
  - b. “Hostile Environment” - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity;
  - c. “Sexual assault” - Any sexual act that constitutes rape, sodomy, sexual assault with no legitimate purpose that makes an object, fondling, incest, and statutory rape, as defined below:
    - (i) “Rape” is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. There is “carnal knowledge” if there is the slightest penetration of the vagina or penis by the sex organ of the other person. Attempted Rape is included.

(ii) “Sodomy” is oral or anal sexual intercourse with another person reasonably concerned for their safety or would cause a reasonable person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(iii) “Sexual Assault with an Object” is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.

(iv) “Fondling” is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(v) “Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Missouri law.

(+)(vi) “Statutory Rape” is sexual intercourse with a person who is under the circumstances to be frightened, intimidated or emotionally distressed statutory age of consent as defined by Missouri law.

3. ~~“Dating/Intimate Partner Violence. Violence, threats of” - The term “dating violence, intimidation and acts of coercion” means violence committed by a person-- (A) who is or has been in a social relationship of a romantic or intimate nature with the recipient of the violent behavior.~~

~~a.d. **Sexual Exploitation.** Sexual exploitation occurs when one person takes nonconsensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited and which behavior does not constitute any other form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following activities done without the consent of all participants: factors: (i) The length of the relationship, (ii) The type of relationship, and (iii) The frequency of interaction between the persons involved in the relationship.~~

~~a. Invasion of sexual privacy;~~

~~b. Prostituting another person;~~

~~c. Taping or recording of sexual activity;~~

~~d. Going beyond the boundaries of consent to sexual activity (e.g., letting your friends hide to watch you engaging in sexual activity);~~

~~e. Engaging in voyeurism;~~

~~f. Knowingly transmitting an STI, STD, venereal disease or HIV to another person;~~

- ~~g. Inducing another to expose their genitals;~~
- ~~h. Nonconsensual distribution of intimate images;~~
- ~~i. Use or distribution of drugs or alcohol with intent to facilitate sexual contact without consent (i.e., predatory drugs or alcohol).~~

e. “Domestic violence” - The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Missouri, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Missouri.

f. “Stalking” - The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to--(A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

2. **Consent to Sexual Activity.** Consent to sexual activity is knowing and voluntary. Consent to sexual activity requires of all involved persons a conscious and voluntary agreement to engage in sexual activity. Each person engaged in the sexual activity must have met the legal age of consent. It is the responsibility of each person to ensure they have the consent of all others engaged in the sexual activity. Consent must be obtained at the time of the specific activity and can be withdrawn at any time. Consent, lack of consent, or withdrawal of consent may be communicated by words or non-verbal acts.

Someone who is incapacitated cannot consent. Silence or absence of resistance does not establish consent. The existence of a dating relationship or past sexual relations between the Parties involved should never by itself be assumed to be an indicator of consent. Further, consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion and force, or threat of either, invalidates consent.

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

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

- a. Lack of awareness of circumstances or surroundings (e.g., an inability to understand, either temporarily or permanently, the who, what, where, how and/or why of the circumstances; blackout state)
- b. Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
- c. Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
- d. Physical symptoms (e.g., vomiting or incontinence).

C. **Title IX Coordinators.** Duties and responsibilities of the University's Title IX Coordinators include monitoring and oversight of overall implementation of Title IX compliance at the University, including coordination of training, education, communications and coordination with the ~~Equity Resolution~~ Title IX Processes for faculty, staff, students and other members of the University community and investigation of ~~complaints of sex discrimination.~~ Formal Complaints of sexual harassment, and to respond promptly to reports of sexual harassment of which the University has actual knowledge in University education programs and activities. The University may designate Deputy Coordinators as needed to assist in fulfillment of the Coordinator's duties and responsibilities. NOTE: All references to "Title IX Coordinator" throughout this policy refer to the Title IX Coordinator or the Coordinator's designee.

~~Any person having inquiries concerning the application of Title IX should contact their respective UM System or campus Title IX Coordinator.~~

For the purposes of this section, "actual knowledge" means notice of sexual harassment or allegations of sexual harassment to a University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the University with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University.

The following individuals serve as Title IX Coordinators and are designated to handle inquiries regarding the Anti-Discrimination policies and to serve as coordinators for purposes of Title IX compliance:

**University of Missouri System and University of Missouri-Columbia**

Andrea Hayes, J.D.

~~Assistant Vice Chancellor for Civil Rights & Title IX~~

Title IX Coordinator

**Address:**

University of Missouri

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

**University of Missouri-Kansas City**

~~Dr.~~ Sybil Wyatt  
~~Equity Officer and~~  
Title IX Coordinator  
**Address:**  
Administrative Center  
5115 Oak Street, Room 212  
Kansas City, MO 64112  
**Telephone:** 816-235-6910  
**Email:** [wyattsb@umkc.edu](mailto:wyattsb@umkc.edu)  
~~www.umkc.edu/titleix~~[www.umkc.edu/titleix](http://www.umkc.edu/titleix)

**Missouri University of Science and Technology**

Neil A. Outar, J.D.  
~~Interim Chief Diversity Officer~~  
Title IX Coordinator  
**Address:**  
203 Centennial Hall  
300 W 12<sup>th</sup> St.  
Rolla, MO 65409  
**Telephone:** 573-341-6038  
**Email:** [naoutar@mst.edu](mailto:naoutar@mst.edu)  
titleix.mst.edu

**University of Missouri-St. Louis**

Dana Beteet Daniels  
Title IX Coordinator  
~~Senior Human Resources Consultant~~  
**Address:**  
~~211 Arts Administration Building~~  
~~One University Boulevard~~  
~~220 Woods Hall~~  
St. Louis, MO 63121  
**Telephone:** 314-516-4538  
**Email:** [dana@umsl.edu](mailto:dana@umsl.edu)  
~~www.umsl.edu/title-ix~~[www.umsl.edu/title-ix](http://www.umsl.edu/title-ix)

**University of Missouri Health System**

Jason Miller, MBA, ~~SPHR~~, SHRM-SCP  
~~Director of HRIS & Employee Relations~~  
Title IX Coordinator

~~Equity Officer~~

**Address:**

One Hospital Drive  
Columbia, MO 65212

**Telephone:** 573-882-8187

**Email:** [millerjaw@health.missouri.edu](mailto:millerjaw@health.missouri.edu)

If the ~~Complaint~~report of alleged sexual harassment in a University education program or activity involves the University's Title IX Coordinator, ~~Complaints~~reports may be made to the System Title IX Coordinator. If the ~~Complaint~~report involves the System Title IX Coordinator, reports may be made to the System President. The contact information for the System President is:

Office of the President

321 University Hall  
Columbia, MO 65211

**Telephone:** 573-882-2011

**Email:** ~~umpresident@umsystem.edu~~umpresident@umsystem.edu

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

~~D. Reporting Sex Discrimination, Including Title IX Resolution Process.~~ The University is committed to preventing and eliminating impermissible sexual harassment in its education programs, activities and employment. To that end, the University maintains policies regarding reporting, investigation, and resolution of complaints of sexual harassment. Specifically, please see:

Section 600.030 – Resolution Process for Resolving Complaints of Sexual Harassment ~~and~~ Under Title IX

~~E. Designated Officials.~~ The following are the officials designated by the University as those who have “authority to institute corrective measures.” These officials are mandated reporters and shall report to the Title IX Coordinators any information that puts them on notice of sexual harassment or allegations of sexual harassment.

- The President of the University of Missouri System;
- The Chancellors of each University in the University of Missouri System;
- The Provosts of each University in the University of Missouri System; and
- The Chief Human Resource Officers for each University in the University of Missouri System.

Any person having inquiries concerning the application of Title IX should contact their respective UM System or University Title IX Coordinator.

~~D.F.~~ Reporting Sexual Misconduct Harassment

1. **Students, Employees, Volunteers, and Visitors, ~~and Patients.~~** Students, employees, volunteers, and visitors, ~~and patients~~ of the University who have experienced any form of ~~sex discrimination, sexual harassment or sexual misconduct,~~ are encouraged to report the incident promptly to the appropriate Title IX Coordinator listed in Section 600.020.C. above. In addition, students, volunteers, and visitors, ~~and patients~~ of the University who have witnessed such conduct are encouraged to report the incident promptly to the appropriate Title IX Coordinator. The University will ~~investigate and appropriately resolve~~ respond to all such reports pursuant to one of its Title IX and Equity Resolution Processes (see Sections 600.030, 600.040, 600.050, 600.060). ~~For questions regarding confidentiality or requests that the Complaint not be pursued, see Section 600.020.E. below. In order to foster reporting and participation, the University may provide amnesty to Complainants and witnesses for minor student conduct violations ancillary to the incident.~~
2. **Mandated Reporters.** Any employee of the University, except as noted below, who becomes aware of ~~sex discrimination~~ sexual harassment as defined in this policy ~~(including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation)~~ is a Mandated Reporter, regardless of whether the recipient of the behavior is a student, employee, volunteer or visitor of the University.
3. **Employees with a Legal Obligation or Privilege of Confidentiality.** Employees with a legal obligation or privilege of confidentiality (including health care providers, counselors, lawyers, and their associated staff) are not considered Mandated Reporters and are not required to report when the information is learned in the course of a confidential communication. This also means that the employee seeking the exemption is employed by the University for that specific purpose and was acting in that capacity when the confidential disclosure was made. If the information is not learned in the course of confidential communication (for example, behavior is observed in class) then the employee has the same obligation as a Mandated Reporter.
4. **Designated Confidential Employees.** Consistent with the law and upon approval from the Office of the General Counsel, ~~campuses~~ Universities may also designate non-professional counselors or advocates as confidential for purposes of this policy and, therefore, excluded from the definition of Mandated Reporters. ~~However, these individuals are required once per month to report to the Title IX Coordinator aggregate, non-personally identifiable information regarding incidents of sex discrimination reported to them. The aggregate data report should contain general information about individual incidents of sexual violence such as the nature, date, time, and general location of the incident. Confidentiality in this context is not the same as privilege under the law.~~
5. **Required Reporting ~~and Disclosure.~~** A ~~mandated~~ Mandated Reporter is required to promptly report the information to the appropriate Title IX Coordinator. The Mandated Report must be made regardless of whether the person reporting the information to the Mandated Reporter requests confidentiality and regardless of how the Mandated Reporter becomes aware of the offensive behavior (personal observation, direct information from the subject of the behavior, indirect information from a third party, etc.).

If the Complainant requests confidentiality or that ~~the charges~~ a report not be pursued, the Mandated Reporter should warn the Complainant that, at this stage in the process, the Mandated Reporter must report all known information to the Title IX Coordinator.

6. **Content of Mandated Report to Title IX Coordinator.** Mandated Reporters must report all details that they possess. This includes names of the Parties, if known, and all other information in the Mandated Reporter's possession.

~~E. Requests for Confidentiality or Not to Pursue an Investigation~~

- ~~1. The Title IX Coordinator or other appropriate official should inform and obtain the consent from the Complainant before beginning an investigation. If the Complainant requests confidentiality or asks that the Complaint not be pursued, the Title IX Coordinator should take all reasonable steps to investigate and respond to the Complaint consistent with the request for confidentiality or request not to pursue an investigation. If a Complainant requests confidentiality or insist that identifiable information, such as the Complainant's name, not be disclosed to the Respondent, the Title IX Coordinator should inform the Complainant that the institution's ability to respond may be limited. The Title IX Coordinator should evaluate the Complainant's request in the context of providing a safe and nondiscriminatory environment for the University community.~~
- ~~2. If, after due deliberation and based on the nature and severity of the Complaint, the Title IX Coordinator determines there is a sufficient basis to proceed with the Complaint, the Title IX Coordinator may initiate an investigation notwithstanding a Complainant's request that the Complaint not be pursued. Such a decision should be well reasoned and documented. Documentation of the decision will be maintained by the Title IX Coordinator. In such cases, the Title IX Coordinator will inform the Complainant of the decision to commence an investigation. Alternatively, if after due deliberation and based on the nature and severity of the Complaint, the Title IX Coordinator determines there is not a sufficient basis to proceed with the Complaint, the Title IX Coordinator may decide not to initiate an investigation and/or may also refer the Complaint to the appropriate procedural process. Such a decision should be well reasoned and documented. Documentation of the decision will be maintained by the Title IX Coordinator. If, after due deliberation, the Title IX Coordinator decides the University cannot or should not take disciplinary action with respect to the Respondent, the Title IX Coordinator should consider other steps to limit the effects of the alleged harassment and prevent its recurrence, and remedy its effects on the victim and the University community.~~

~~F. Impact of Optional Report to Law Enforcement.~~ In accordance with federal law, the Title IX Coordinator will not wait for the conclusion of a criminal investigation or criminal proceeding to begin the Title IX preliminary investigation. It may be necessary to delay temporarily the fact finding portion of a Title IX preliminary investigation while the police are gathering evidence. The Title IX Coordinator will promptly resume the preliminary Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process. The Title IX Coordinator will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the Complainant and the campus community and the avoidance of retaliation.



**4.7. Non-compliance.** Failure to comply with this policy can result in disciplinary action. Employees also are cautioned that non-compliance with this policy may increase their risk of personal liability. Further, an individual who fails to report as required under this policy may be determined to be ineligible for defense or protection under Section 490.010 of the University's Collected Rules and Regulations for any associated claims, causes of action, liabilities or damages.

**G. Retaliation, False Reporting, and Witness Intimidation or Harassment.**

1. Retaliation is any adverse action taken against a person because of that person's participation ~~in protected activity. The University strictly prohibits retaliation against any person for making any good faith report or refusal to a Title IX Coordinator or for filing, testifying, assisting, or participating~~ participate in the process set forth in any investigation or proceeding involving allegations of sex discrimination, sexual harassment or sexual misconduct CRR 600.030. 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 or~~ Title IX Coordinator. The University will promptly ~~investigate~~ respond to all claims of retaliation in accordance with this policy.

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

**~~False Reporting.~~ 2.** ~~False reporting is making an intentional false report or accusation in relation to this policy as opposed to a report or accusation, which, even if erroneous, is made in good faith. False reporting is a serious offense subject to appropriate disciplinary action ranging up to and including expulsion or termination.~~

**~~Witness Intimidation.~~ 3.** ~~The University prohibits attempted or actual intimidation or harassment of any potential Party or witness. No individual participating in an investigation relating to a report or Formal Complaint that a violation of this policy has occurred should, directly or through others, take any action which may interfere with the investigation. The University prohibits attempts to 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.~~

4. For situations involving alleged retaliation, false reporting, and witness intimidation or harassment, the Title IX Coordinator will refer the matter to the appropriate University process.

H. **U.S. Department of Education—Office for Civil Rights.** Inquiries concerning the application of Title IX also may be referred to the United States Department of Education’s Office for Civil Rights. For further information on notice of nondiscrimination, visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> and for the address and phone number of the U.S. Department of Education office which serves your area, or call 1-800-421-3481.

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

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

## **600.020 Sexual Harassment under Title IX**

Executive Order 40, 4-8-14; Revised 6-19-14; Revised 9-22-14 by Executive Order 41. Revised 2-9-17 with an effective date of 3-1-17; Revised 7-28-20 with an effective date of 8-14-20.

- A. **Sexual Harassment in Education.** 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. In furtherance of these commitments, both University policy and applicable state and federal law, prohibit all students, employees, volunteers and visitors at the University from engaging in sexual harassment in a University education program or activity against a person in the United States.

This policy applies to sexual harassment in any phase of the University's employment process, any phase of its admission or financial aid programs, and all other aspects of its education programs or activities. For purposes of this policy, "education program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the conduct occurs, and includes any building owned or controlled by a student organization that is officially recognized by the University. This policy and CRR 600.030 do not apply to sexual harassment that happens outside the United States, even when the conduct occurs in an education program or activity of the University.

### **B. Definitions**

1. **Sexual Harassment.** Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
  - a. **"Quid Pro Quo"** - An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
  - b. **"Hostile Environment"** - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;
  - c. **"Sexual assault"** - Any sexual act that constitutes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape, as defined below:
    - (i) "Rape" is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. There is "carnal knowledge" if there is the slightest penetration of the vagina or penis by the sex organ of the other person. Attempted Rape is included.

- (ii) “Sodomy” is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - (iii) “Sexual Assault with an Object” is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.
  - (iv) “Fondling” is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - (v) “Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Missouri law.
  - (vi) “Statutory Rape” is sexual intercourse with a person who is under the statutory age of consent as defined by Missouri law.
- d. **“Dating Violence”** - The term “dating violence” means violence committed by a person-- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship, (ii) The type of relationship, and (iii) The frequency of interaction between the persons involved in the relationship.
  - e. **“Domestic violence”** - The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Missouri, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Missouri.
  - f. **“Stalking”** - The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to--(A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.
2. **Consent to Sexual Activity.** Consent to sexual activity is knowing and voluntary. Consent to sexual activity requires of all involved persons a conscious and voluntary agreement to engage in sexual activity. Each person

engaged in the sexual activity must have met the legal age of consent. It is the responsibility of each person to ensure they have the consent of all others engaged in the sexual activity. Consent must be obtained at the time of the specific activity and can be withdrawn at any time. Consent, lack of consent, or withdrawal of consent may be communicated by words or non-verbal acts.

Someone who is incapacitated cannot consent. Silence or absence of resistance does not establish consent. The existence of a dating relationship or past sexual relations between the Parties involved should never by itself be assumed to be an indicator of consent. Further, consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion and force, or threat of either, invalidates consent.

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

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

- a. Lack of awareness of circumstances or surroundings (e.g., an inability to understand, either temporarily or permanently, the who, what, where, how and/or why of the circumstances; blackout state)
- b. Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
- c. Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
- d. Physical symptoms (e.g., vomiting or incontinence).

- C. **Title IX Coordinators.** Duties and responsibilities of the University's Title IX Coordinators include monitoring and oversight of overall implementation of Title IX compliance at the University, including coordination of training, education, communications and coordination with the Title IX Processes for faculty, staff, students and other members of the University community and investigation of Formal Complaints of sexual harassment, and to respond promptly to reports of sexual harassment of which the University has actual knowledge in University education programs and activities. The University may designate Deputy Coordinators as needed to assist in fulfillment of the Coordinator's duties and

responsibilities. NOTE: All references to “Title IX Coordinator” throughout this policy refer to the Title IX Coordinator or the Coordinator’s designee.

For the purposes of this section, “actual knowledge” means notice of sexual harassment or allegations of sexual harassment to a University’s Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the University with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University.

The following individuals serve as Title IX Coordinators and are designated to handle inquiries regarding the Anti-Discrimination policies and to serve as coordinators for purposes of Title IX compliance:

**University of Missouri System and University of Missouri-Columbia**

Andrea Hayes, J.D.  
Title IX Coordinator

**Address:**

University of Missouri  
202 Jesse Hall  
Columbia, MO 65211

**Telephone:** (573) 882-2824

**Email:** [hayesas@missouri.edu](mailto:hayesas@missouri.edu)  
civilrights.missouri.edu

**University of Missouri-Kansas City**

Dr. Sybil Wyatt  
Title IX Coordinator

**Address:**

Administrative Center  
5115 Oak Street, Room 212  
Kansas City, MO 64112

**Telephone:** 816-235-6910

**Email:** [wyattsb@umkc.edu](mailto:wyattsb@umkc.edu)  
[www.umkc.edu/titleix](http://www.umkc.edu/titleix)

**Missouri University of Science and Technology**

Neil A. Outar, J.D.  
Title IX Coordinator

**Address:**

203 Centennial Hall  
300 W 12<sup>th</sup> St.  
Rolla, MO 65409

**Telephone:** 573-341-6038  
**Email:** [naoutar@mst.edu](mailto:naoutar@mst.edu)  
titleix.mst.edu

**University of Missouri-St. Louis**

Dana Beteet Daniels  
Title IX Coordinator

**Address:**

One University Boulevard  
220 Woods Hall  
St. Louis, MO 63121

**Telephone:** 314-516-4538

**Email:** [dana@umsl.edu](mailto:dana@umsl.edu)  
[www.umsl.edu/title-ix](http://www.umsl.edu/title-ix)

**University of Missouri Health System**

Jason Miller, MBA, SHRM-SCP  
Title IX Coordinator

**Address:**

One Hospital Drive  
Columbia, MO 65212

**Telephone:** 573-882-8187

**Email:** [millerjaw@health.missouri.edu](mailto:millerjaw@health.missouri.edu)

If the report of alleged sexual harassment in a University education program or activity involves the University's Title IX Coordinator, reports may be made to the System Title IX Coordinator. If the report involves the System Title IX Coordinator, reports may be made to the System President. The contact information for the System President is:

Office of the President  
321 University Hall  
Columbia, MO 65211

**Telephone:** 573-882-2011

**Email:** [umpresident@umsystem.edu](mailto:umpresident@umsystem.edu)

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

- D. **Title IX Resolution Process.** The University is committed to preventing and eliminating impermissible sexual harassment in its education programs, activities and employment. To that end, the University maintains policies regarding reporting, investigation, and resolution of complaints of sexual harassment. Specifically, please see:

## Section 600.030 – Resolution Process for Resolving Complaints of Sexual Harassment Under Title IX

- E. **Designated Officials.** The following are the officials designated by the University as those who have “authority to institute corrective measures.” These officials are mandated reporters and shall report to the Title IX Coordinators any information that puts them on notice of sexual harassment or allegations of sexual harassment.
- The President of the University of Missouri System;
  - The Chancellors of each University in the University of Missouri System;
  - The Provosts of each University in the University of Missouri System; and
  - The Chief Human Resource Officers for each University in the University of Missouri System.

Any person having inquiries concerning the application of Title IX should contact their respective UM System or University Title IX Coordinator.

### F. Reporting Sexual Harassment

1. **Students, Employees, Volunteers, and Visitors.** Students, employees, volunteers, and visitors of the University who have experienced any form of sexual harassment are encouraged to report the incident promptly to the appropriate Title IX Coordinator listed in Section 600.020.C. above. In addition, students, volunteers, and visitors of the University who have witnessed such conduct are encouraged to report the incident promptly to the appropriate Title IX Coordinator. The University will respond to all such reports pursuant to one of its Title IX and Equity Resolution Processes (see Sections 600.030, 600.040, 600.050).
2. **Mandated Reporters.** Any employee of the University, except as noted below, who becomes aware of sexual harassment as defined in this policy is a Mandated Reporter, regardless of whether the recipient of the behavior is a student, employee, volunteer or visitor of the University.
3. **Employees with a Legal Obligation or Privilege of Confidentiality.** Employees with a legal obligation or privilege of confidentiality (including health care providers, counselors, lawyers, and their associated staff) are not considered Mandated Reporters and are not required to report when the information is learned in the course of a confidential communication. This also means that the employee seeking the exemption is employed by the University for that specific purpose and was acting in that capacity when the confidential disclosure was made. If the information is not learned in the course of confidential communication (for example, behavior is observed in class) then the employee has the same obligation as a Mandated Reporter.
4. **Designated Confidential Employees.** Consistent with the law and upon approval from the Office of the General Counsel, Universities may also designate non-professional counselors or advocates as confidential for purposes of this policy and, therefore, excluded from the definition of Mandated Reporters.
5. **Required Reporting.** A Mandated Reporter is required to promptly report the information to the appropriate Title IX Coordinator. The Mandated Report



must be made regardless of whether the person reporting the information to the Mandated Reporter requests confidentiality and regardless of how the Mandated Reporter becomes aware of the offensive behavior (personal observation, direct information from the subject of the behavior, indirect information from a third party, etc.). If the Complainant requests confidentiality or that a report not be pursued, the Mandated Reporter should warn the Complainant that, at this stage in the process, the Mandated Reporter must report all known information to the Title IX Coordinator.

6. **Content of Mandated Report to Title IX Coordinator.** Mandated Reporters must report all details that they possess. This includes names of the Parties, if known, and all other information in the Mandated Reporter's possession.
7. **Non-compliance.** Failure to comply with this policy can result in disciplinary action. Employees also are cautioned that non-compliance with this policy may increase their risk of personal liability. Further, an individual who fails to report as required under this policy may be determined to be ineligible for defense or protection under Section 490.010 of the University's Collected Rules and Regulations for any associated claims, causes of action, liabilities or damages.

#### **G. Retaliation, False Reporting, and Witness Intimidation or Harassment.**

1. Retaliation is any adverse action taken against a person because of that person's participation or refusal to participate in the process set forth in CRR 600.030. 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 Title IX Coordinator. The University will promptly respond to all claims of retaliation in accordance with this policy.

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

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

4. For situations involving alleged retaliation, false reporting, and witness intimidation or harassment, the Title IX Coordinator will refer the matter to the appropriate University process.

H. **U.S. Department of Education—Office for Civil Rights.** Inquiries concerning the application of Title IX also may be referred to the United States Department of Education's Office for Civil Rights. For further information on notice of nondiscrimination and for the address and phone number of the U.S. Department of Education office which serves your area call 1-800-421-3481.

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

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

**600.030 ~~Equity Resolution Process for Resolving Complaints of Discrimination, Sexual Harassment, and Sexual Misconduct against a Student or Student Organization~~ under Title IX**

Executive Order 41, 9-22-14; ~~Amended~~Revised 2-09-17 with effective date of 3-1-17; Revised 7-28-20 with an effective date of 8-14-20.

A. **General.** The University will promptly and appropriately respond to any ~~Complaint~~report of violation of the University's ~~Anti-Discrimination~~Title IX policies.

~~The procedures described below apply to such Complaints when the Respondent is a student, students or a student organization.~~

B. **Jurisdiction.** Jurisdiction of the University of Missouri ~~generally under the Title IX policies~~ shall be limited to ~~conduct sexual harassment~~ which occurs ~~on in an education program or activity of the University of Missouri premises or at against a person in the United States.~~ For purposes of this policy, "education program or activity" includes ~~locations, events, or circumstances over which the University sponsored or exercised substantial control over both the Respondent and the context in which the conduct occurs, and includes any building owned or controlled by a student organization that is officially recognized by the University supervised functions.~~ However, the University may take appropriate action, including, but not limited to, the imposition of sanctions under Section 600.030 of the ~~Collected Rules and Regulations against students for.~~ This policy does not apply to sexual harassment which occurs outside of the United States, even when the conduct occurring in other settings, including off campus, (1) in order to protect the physical safety of students, employees, visitors, patients or other members of the University community, or (2) if there are effects occurs in an education program or activity 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.

If a Complainant alleges or the investigation suggests that ~~a student conduct another University~~ policy violation occurred in concert with ~~the an~~ alleged violation of the University's ~~Anti-Discrimination Policies~~Title IX policies, the University shall have the authority to investigate and take appropriate action regarding ~~each of the alleged violations of the student conduct policy other University policies~~ pursuant to this ~~Equity Resolution Process (i.e., the Student Conduct Procedure shall not apply).~~process. In conducting such investigations, the ~~Equity Resolution Officer, Title IX Coordinator,~~(s), and/or their Investigator may consult with and/or seek guidance from the Equity Officer, Student Conduct Coordinator, or ~~Residential Life Coordinator~~other University officials as appropriate. If the allegations in a Formal Complaint that fall under this policy are dismissed, the University may discontinue the process under this policy and proceed under the applicable University procedure for all remaining allegations in the Formal Complaint.

C. **Definitions:**

1. **Academic Medical Center.** University of Missouri Hospitals and Clinics, and other Academic Medical Centers as may be designated by the University in the future.
2. **Academic Medical Center Resolution Process.** Resolution of a Formal Complaint by a decision-maker making a finding on each of the alleged policy violations and a finding on sanctions.
3. **Administrative Resolution.** A voluntary informal resolution process where a decision-maker makes a finding on each of the alleged policy violations in a Formal Complaint and a finding on sanctions without a hearing.
4. **Advisors.** The individuals selected by the Complainant and the Respondent, or if a Party does not have their own Advisor, selected by the University, to conduct all cross-examination and other questioning on behalf of a Party at a hearing; an Advisor may, but is not required to, be an attorney.
5. **Alternate Methods of Notice:** Methods of providing Notice to a Party other than in person or by email to the Party's University email account; these include email to another email account specified by the Party, or a Party's designation of an address to which Notice may be mailed via U.S. Mail; a Party seeking to designate an Alternate Method of Notice must provide such designation in writing to the Title IX Coordinator.
6. **Complainant.** "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
7. **Emergency Removal Appeal Individual/Committee:** An individual or committee of three (3) individuals appointed by the Chancellor (or Designee) to hear appeals of an Emergency Removal decision by the Title IX Coordinator.
8. **Equity Resolution Appellate Officer.** For Staff, Student(s) or Student Organization Respondents, a trained, senior-level administrator appointed by the Chancellor (or Designee) to hear all appeals stemming from the Title IX Resolution Process. For Faculty Respondents, the Chancellor (or Designee).
9. **Equity Resolution Hearing Panel ("Hearing Panel").** A group of two (2) trained Equity Resolution Hearing Panelist Pool members who, together with the Hearing Officer, serve as the Hearing Panel for a specific Formal Complaint. A good faith attempt will be made for the Hearing Panel to include at least one faculty member and one administrator or staff member. The Hearing Officer shall serve as the Chair of the Hearing Panel.
10. **Equity Resolution Hearing Panelists Pool ("Hearing Panelist Pool").** A group of at least five (5) faculty and five (5) administrators and/or staff selected by the Chancellor (or Designee) to serve as hearing panel members in the Hearing Panel Resolution process. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than ten (10) faculty members proposed by the faculty council/senate. Selection of hearing panel pool members shall be made with an attempt to recognize the diversity of the University community. Hearing Panel members from one University may be asked to serve on a hearing panel involving another University.

11. **Formal Complaint.** Formal Complaint means a written document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment. The phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or 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 Formal Complaint.

12. **Hearing Officer.** A trained individual appointed by the Chancellor (or Designee) to preside over a hearing and act as a member of the Hearing Panel, and to rule on objections and the relevancy of questions and evidence during the hearing.

13. **Hearing Panel Decision.** Resolution of a Formal Complaint by an Equity Resolution Hearing Panel recommending or making a finding on each of the alleged policy violations and sanctions, if applicable.

14. **Hearing Panelist Pool Chair (“Pool Chair”).** The Hearing Panelist Pool Chair is selected by the Chancellor (or Designee). The Pool Chair randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Formal Complaint. The Pool Chair may serve as a panel member for a specific Formal Complaint.

15. **Informal Resolution.** A voluntary resolution process using alternative dispute resolution mechanisms such as mediation, facilitated dialogue, administrative resolution, or restorative justice.

16. **Investigators.** Investigators are trained individuals appointed by the Title IX Coordinator (or ~~their~~ designee) to conduct investigations of the alleged violations of the University’s Title IX Policies.

17. **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.

1. **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 and the Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy located at Section 600.020 of the Collected Rules and Regulations.

2. **Complainant.** “Complainant” refers to the person alleged to have been subjected to discrimination, harassment or sexual misconduct 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, harassment or sexual misconduct 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 Complaints of 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. **Respondent.** The student, students or student organization alleged to have violated the University's Anti-Discrimination Policies.~~

18. **Record of the Case.** The Record of the Case in the Section 600.030 Process includes, when applicable: All Notices to the Parties; investigative report; recordings of Party and witness interviews; exhibits used at a hearing or at the Academic Medical Center (AMC) Meeting; recordings of meetings between the AMC decision-maker and Parties and witnesses, if any; the hearing record (an audio or audiovisual record of the hearing); any determination of dismissal of all or part of a Formal Complaint; the determination on each of the alleged policy violations and sanctions by either the Hearing Panel or decision-maker; and the decision on the appeal, if any, including the request for appeal, any additional evidence submitted for the appeal, and written arguments of the Parties.

19. **Report.** Any verbal or written communication or notice of an alleged violation of the University's Title IX Policies.

20. **Respondent.** Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

21. **Rules of Decorum.** Hearing process rules to which Parties and their Advisors must adhere during any Hearing under this policy.

4-22. **Student.** A person having once been admitted to the University who has not completed a course of study and who intends to or does continue a course of study in or through one of the ~~campuses~~ Universities of the University System. For the purpose of these rules, student status continues whether or not the University's academic programs are in session.

5-23. **Student Organization.** A recognized student organization which has received Official Approval in accordance with Section 250.010 of the Collected Rules and Regulations. Three members of the organization may represent the student organization as the Party.

~~6-1. **Complaint.** Any verbal or written communication or notice of an alleged violation of the University's Anti-Discrimination Policies.~~ **Support Person. An individual.**

7-24. **Advisors.** The individuals selected by the Complainant a Party to accompany the Party to all meetings and the Respondent interviews to provide support and guidance for the Party throughout the Equity Resolution Title IX Process. Each Party is allowed one A Support Person may not attend a hearing under the Title IX process unless also serving as a Party's Advisor.

~~8. **Investigators.** Investigators are trained individuals appointed by the Equity Officer or Title IX Coordinator (or their designee) to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.~~

~~9. **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 reports or 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.

**10-25. Title IX Coordinator.** The Title IX Coordinator is a trained administrator designated by the Chancellor (or Designee) to respond to reports of sexual harassment; and to receive and assist with the investigation and resolution of reports or complaints regarding Title IX process for Formal Complaints alleging violation of the University's ~~Sex Discrimination, Sexual Harassment and Sexual Misconduct~~ in Employment/Education Policy. All references to "Title IX Coordinator" throughout this policy refer to the Title IX Coordinator or the Title IX Coordinator's designee.

~~11. **Equity Resolution Hearing Panelists Pool ("Hearing Panelist Pool").** A group of at least ten (10) faculty and ten (10) administrators and/or staff selected by the Chancellor (or Designee) to serve as hearing panel members in the Hearing Panel Resolution. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than twenty (20) faculty members proposed by the faculty council/senate.~~

~~12. **Equity Resolution Hearing Panel ("Hearing Panel").** A group of three (3) trained Equity Resolution Hearing Panelist Pool members who serve as the Hearing Panel for a specific Complaint. Whenever possible, the panel will include at least one faculty member and one administrator or staff member.~~

~~13. **Hearing Panelist Pool Chair ("Pool Chair").** The Hearing Panelist Pool Chair is selected by the Chancellor (or Designee). The Pool Chair assigns and coordinates the hearing panel members to serve on the Hearing Panel for a specific Complaint and designates the Chair of the Hearing Panel for a specific Complaint. The Pool Chair may serve as a panel member or the Chair of the Hearing Panel for a specific Complaint.~~

~~14.1. **Chair of the Hearing Panel ("Panel Chair").** A Chair of the Hearing Panel for a specific Complaint is designated by the Hearing Panelist Pool Chair. The Pool Chair may serve as the Chair of the Hearing Panel for a specific Complaint.~~

~~15. **Equity Resolution Appellate Officer.** A trained, senior-level administrator appointed by the Chancellor (or Designee) to hear all appeals stemming from the Equity Resolution Process.~~

~~16. **Summary Resolution.** Resolution of the Complaint upon a determination by the Equity Officer of Title IX Coordinator that there is an insufficient basis to proceed with the Complaint that the Respondent violated the **University's Anti-Discrimination Title IX Policies.**~~

~~17. **Conflict Resolution.** Resolution using alternative dispute resolution mechanisms such as mediation, facilitated dialogue or restorative justice.~~

~~18. **Administrative Resolution.** Resolution of a Complaint by the Equity Officer or Title IX Coordinator making the finding on each of the alleged policy violations and the finding on sanctions.~~

~~19. **Hearing Panel Resolution.** Resolution of a Complaint by an Equity Resolution Hearing Panel making the finding on each of the alleged policy violations and the finding on sanctions.~~

~~20. **Record of the Case in Section 600.030 Process.** The Record of the Case in the Section 600.030 Process includes, when applicable: Letter(s) of notice, exhibits, hearing record (an audio, video, digital or stenographic record of the hearing); the finding on each of the alleged policy violations and sanctions by either the Hearing Panel or the Equity Officer of Title IX Coordinator; and the decision on the appeal, if applicable.~~

~~24.1. **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.~~

~~26. **Filing a Complaint.** Any student, employee, volunteer, visitor, or patient who believes that a student or student organization has violated the The University's Equal Employment/Education Opportunity and Nondiscrimination Title IX Policies include this Policy should report the Complaint to the Equity Officer. Any student, employee, volunteer, visitor, or patient who believes that a student or student organization has violated the Sex Discrimination, and the Sexual Harassment, and Sexual Misconduct in Employment/Education Policy should report the Complaint to the Title IX Coordinator. Complainants may also contact campus located at Section 600.020 of the Collected Rules and Regulations (CRR).~~

D. **Making a Report.** Any person (whether or not the person reporting is the Complainant) may report sexual harassment to the Title IX Coordinator. Such Reports 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 Title IX Coordinator, by an online portal set up by the University for this purpose, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. ~~Such a Report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.~~ Individuals may also contact University police if the alleged offense may also constitute a crime. In order to foster reporting and participation, the University may provide amnesty to ~~Complainants~~ Parties and witnesses accused of minor student conduct violations ancillary to the incident.

E. **Preliminary Investigation>Contact.** Upon receiving a Report, the ~~Complaint, the Equity Officer or~~ Title IX Coordinator 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 the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. If the identity of the Complainant is unknown, the Title IX Coordinator may conduct a ~~preliminary~~ limited investigation. ~~The~~ sufficient to identify the Complainant to the extent possible.

F. **Filing of a Formal Complaint.** A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth in CRR 600.020, or through an online portal provided for this purpose ~~of the preliminary~~ by the University. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in an education program or activity of the University.

The Title IX Coordinator may sign a Formal Complaint when they believe that with or without the Complainant's desire to participate in this process, a non-deliberately



~~indifferent response to the allegations requires an investigation is to gather enough information to make a threshold decision regarding whether the Complaint describes a possible violation of the University's Anti-Discrimination Policies. If the Complaint describes a possible violation, the Equity Officer or.~~ Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a Party under this policy.

If the Respondent files a Formal Complaint against the Complainant within ten (10) business days of the date of the Notice of Allegations where the allegations of sexual harassment in both Formal Complaints arise out of the same facts or circumstances, the University will consolidate the Formal Complaints for purposes of investigation and resolution in accordance with this policy.

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~~The University may consolidate Formal Complaints as to allegations of sexual 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 sexual harassment arise out of the same facts or circumstances. If the Respondent files a Formal Complaint against the Complainant more than ten (10) business days after the date of the Notice of Allegations where the allegations of sexual harassment in both Formal Complaints arise out of the same facts or circumstances, the University may consolidate the Formal Complaints for purposes of investigation and resolution in accordance with this policy. 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.~~

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#### **G. Notice of Allegations:**

1. ~~Upon receipt of a Formal Complaint, the Title IX Coordinator will refer the matter to the appropriate procedural process and provide appropriate interim remedies. If the Complaint does not describe a possible violation, the matter provide a written notice to the known Parties that includes the following:~~
  - a. ~~A description of the University's Title IX Process, including Informal Resolution;~~
  - b. ~~Notice of the allegations of sexual 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 sexual 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 Title IX process.~~
  - d. A statement reminding the Respondent that they have the right to file a report or Formal Complaint with the Title IX Coordinator; however, both Parties are advised that retaliation against any Party is prohibited.
  - e. ~~A statement notifying the Parties of the availability of Supportive Measures.~~
  - f. ~~A statement notifying the Parties of their right to have an Advisor of their choice, who may be, but is not required to be, an attorney. The Parties will be referred~~

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to the appropriate non-equity process. Under those circumstances, the Equity Officer or Title IX Coordinator may counsel and suggest monitoring or training opportunities to correct for inappropriate behavior that does not rise to the level of a violation. advised that if they do not have an Advisor to conduct cross-examination at a hearing on their behalf, the University will appoint such an Advisor; this Advisor may be, but is not required to be, an attorney. (This provision does not apply to matters proceeding under the process for Academic Medical Centers set forth in Section R).

The preliminary investigation shall be conducted promptly (typically within 7-10 business days of receiving the Complaint). At the conclusion of the preliminary investigation, the Equity Officer or Title IX Coordinator will provide the Complainant with written information regarding the appropriate procedural process and interim remedies, if any.

~~E. **Interim Remedies.** During the Equity Resolution Process and prior to finding whether the alleged violation has occurred, the Equity Officer or Title IX Coordinator may provide interim remedies including, but not limited to, one or more of the following:~~

- ~~g. A statement notifying the Parties that they may have a Support Person selected by a Party accompany the Party to all meetings and interviews to provide support for the Party throughout the Title IX Process. A Support Person may not attend a hearing under the Title IX process unless also serving as a Party's Advisor.~~
- ~~h. 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 Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and including inculpatory and exculpatory evidence whether obtained from a Party or other source.~~
- ~~i. 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 Title IX 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.~~
- ~~j. A statement that nothing in the Title IX 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.~~
- ~~k. A statement informing a Party that all notices hereafter will be sent via their University-issued email account, unless they provide to the Title IX Coordinator an alternate method of notification. If a Party does not have a University-issued email account, all notices will be via U.S. Mail unless they provide the Title IX Coordinator 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 ~~and emailed~~.

H. 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 Formal Complaint or where no Formal Complaint has been filed. These 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 education environment, or deter sexual 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 Title IX Coordinator is responsible for the effective implementation of Supportive Measures. Supportive Measures may include:

1. Referral and facilitating contact for the Complainant ~~to on- or off-campus~~ Respondent for counseling, ~~medical services and/or mental health~~ other support services.
2. ~~Implementing Mutual restrictions on contact limitations on between the Respondent or on all Parties.~~
3. ~~Referral of Complainant to victim advocacy and support~~ Providing campus escort services either on and/or off to the Parties.
- 3-4. ~~Increased security and monitoring of certain areas of the campus.~~
- 4-5. ~~Adjusting the extracurricular activities, work schedules, work assignments, supervisory responsibilities, or work arrangements of the Complainant and/or the Respondent, as appropriate.~~
- 5-6. ~~If the Complainant~~ either Party is a student:
  - a. Referral of ~~the Complainant~~ that Party to academic support services and any other services that may be beneficial to the ~~Complainant~~ Party.
  - b. Adjusting the courses, assignments, and/or exam schedules of the ~~Complainant and/or the Respondent~~ Party.
  - c. Altering the on-campus housing assignments, dining arrangements, or other campus services for ~~either the Complainant and/or the Respondent~~ the Party.
- 6-7. ~~Providing limited~~ transportation accommodations for the ~~Complainant~~ Parties.
- 7-8. ~~Informing the Complainant~~ Parties of the right to notify law enforcement authorities of the alleged incident and offering to help facilitate such a report.
8. ~~Suspending, on an interim basis, the Respondent from the University housing, classes, the University campus/facilities/events and/or all other University activities or privileges for which the student might otherwise be eligible, when the Equity Officer or Title IX Coordinator finds~~

~~and believes from the available information that the presence of the Respondent on campus would seriously disrupt the University or constitute a danger to the health, safety, or welfare of members of the University community. The appropriate procedure to determine the future status of the student will be initiated within seven (7) business days.~~

9. Implementing an Emergency Removal of a Respondent from the University's education program or activity on an emergency basis, if the Title IX Coordinator, after conducting an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, justifies removal.

~~a. In all cases in which an interim suspension~~Emergency Removal is imposed, the Respondent will immediately be given ~~the notice and an~~ opportunity to ~~meet with~~challenge the ~~Equity Officer or~~decision of the Title IX Coordinator ~~either~~ prior to such ~~suspension~~Removal being imposed, or as soon thereafter as reasonably possible but no later than five (5) business days, to show cause why the ~~suspension~~removal should not be implemented.

~~b.a. At the discretion of the Equity Officer or. Any such challenge shall be made in writing and directed to the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the Respondent, who will forward such challenge to the Emergency Removal Appeal Individual/Committee, which will make a final decision on removal within three (3) business days.~~

~~c. The Equity Officer or Title IX Coordinator has sole discretion to implement or stay an interim suspension and to determine its conditions and duration.~~

~~d.b. Violation of an interim suspension~~Emergency Removal under this policy ~~will~~may be grounds for ~~expulsion~~discipline.

9-10. Suspending, on an interim basis, the Respondent Student Organization's operations, University recognition, access to and use of the University campus/facilities/events and/or all other University activities or privileges for which the Respondent Student Organization might otherwise be eligible, pending the completion of the ~~Equity Resolution~~Title IX Process when the ~~Equity Officer or~~ Title IX Coordinator finds and believes from available information that the presence of the student organization on campus would seriously disrupt the University or constitute a danger to the health, safety, or welfare of members of the University community. The appropriate procedure to determine the future status of the student organization will be initiated within seven (7) business days.

11. Implementing an administrative leave for an employee in accordance with University Human Resources Policies. Administrative leave for an employee is not an Emergency Removal under this policy.

**F.I. Employees and Students Participating in the ~~Equity Resolution~~Title IX 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 but not limited to the Investigator, ~~Equity Officer~~, Title IX Coordinator, the

Hearing Panel and/or the Equity Resolution Appellate Officer, and all documentary evidence must be genuine and accurate. False statements, or fraudulent evidence ~~or refusal provided in this process, including but not limited to cooperate with the Equity Officer/Investigator,~~ Title IX Coordinator, Hearing Panel and/or the Equity Resolution Appellate Officer, by an employee may be the basis for personnel action ~~or pursuant to CRR 370.010 or HR 601, or other applicable University policies, or if~~ by a student may be the basis for ~~student conduct~~ disciplinary action pursuant to ~~Collected Rules Regulations 200.010.B.14 or other the~~ provisions of ~~Collected Rules Regulations~~ 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. Nothing in this provision is intended to require a ~~Complainant to participate in the process~~ Party or witness to participate in the process. 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 attempting to or actually intimidating or harassing any potential witness. Failure to adhere to these requirements may lead to disciplinary action, up to and including expulsion or termination.

#### **G.J. Rights of the ~~Complainant~~ Parties in the ~~Equity Resolution~~ Title IX Process**

1. To be treated with respect by University officials.
2. To be free from retaliation.
3. To have access to ~~campus~~ 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 a Support Person of the Party's choice accompany the party to all interviews and meetings (excluding hearings) throughout the Title IX Process.
6. To refuse to have an allegation resolved through the Informal Resolution Processes.
7. 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.
8. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
9. To have Formal Complaints heard in substantial accordance with these procedures.
10. To receive written notice of any delay of this process or limited extension of time frames for good cause which may include considerations such as the absence of a Party, a Party's Advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

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 the dismissal of all or a portion of a Formal Complaint, and appeal the determination of a Hearing Panel or other decision-maker.

14. Additional Rights for Students as a Party:

a. To request reasonable housing, living and other accommodations and remedies consistent with Section 600.030.FH.

~~4.1. To request a no contact directive between the Parties.~~

~~5. To have an Advisor of the Complainant's choice accompany the Complainant to all interviews, meetings and proceedings throughout the Equity Resolution Process.~~

~~6. To refuse to have an allegation resolved through Conflict Resolution or Administrative Resolution Processes.~~

a-b. To receive amnesty for minor student misconduct that is ancillary to the incident, at the discretion of the Equity Officer or Title IX Coordinator.

~~7. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.~~

~~8. To have Complaints heard in substantial accordance with these procedures.~~

~~9. When the Complainant is not the reporting party, the Complainant has full rights to participate in any Equity Resolution Process.~~

~~10.1. To be informed of the finding, rationale, sanctions and remedial actions.~~

~~11.1. To report the matter to law enforcement (if applicable) and to have assistance in making that report.~~

~~12. To have an opportunity to appeal the findings and sanctions.~~

13-15. Additional Rights For Hearing Panel Resolution:

a. To receive notice of a hearing.

b. To have the names of witnesses ~~that~~who may participate in the hearing and copies of all ~~pertinent~~ documentary evidence gathered in the course of the investigation and any investigative report ~~at least five (5) business days prior to the hearing. In the event the Hearing Panel becomes aware of additional witnesses or pertinent documentary evidence less than five (5) business days prior to the scheduled hearing date (or continued hearing date), the Complainant shall be provided reasonable notice of such witnesses and reasonable time to review pertinent documentary evidence prior to their introduction.~~

~~c. 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.~~

~~d. To request alternative attendance or questioning mechanisms for the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.).~~

~~e. To have present an Advisor during the hearing and to consult with such Advisor during the hearing.~~

~~f. To testify at the hearing or refuse to testify at the hearing.~~

~~g. To present witnesses and documents deemed relevant by the Chair.~~

h. ~~To question witnesses present and testifying at the hearing. See Section 600.030.N. below for limitations on directly questioning the Respondent.~~

**H. ~~Rights of the Respondent in the Equity Resolution Process:~~**

1. ~~To be treated with respect by University officials.~~
2. ~~To have access to campus support resources (such as counseling and mental health services and University health services), unless removed from campus pending the completion of the process.~~
3. ~~To have an Advisor of the Respondent's choice accompany the Respondent to all meetings and proceedings throughout the Equity Resolution Process.~~
4. ~~To refuse to have an allegation resolved through Conflict Resolution or Administrative Resolution Processes.~~
- 5.1. ~~To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.~~
6. ~~To receive notice of the policies alleged to have been violated.~~
7. ~~To have Complaints heard in substantial accordance with these procedures.~~
8. ~~To be informed of the finding, rationale and sanctions.~~
9. ~~To have an opportunity to appeal the findings and sanctions.~~
10. ~~Additional Rights For Hearing Panel Resolution:~~
  - a. ~~To receive notice of the hearing.~~
  - b. ~~To have the names of witnesses that may participate in the hearing and copies of all pertinent documentary evidence and any investigative report at least five (5) business days prior to the hearing. In the event the Hearing Panel becomes aware of additional witnesses or pertinent documentary evidence less than five (5) business days prior to the scheduled hearing date (or continued hearing date), the Complainant shall be provided reasonable notice of such witnesses and reasonable time to review pertinent documentary evidence prior to their introduction.~~
  - c. ~~To be present at the hearing, which right may be waived by either written notification to the Hearing ~~Panel Chair~~ Officer or by failure to appear.~~
  - d. ~~To request alternative attendance or questioning mechanisms for the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.).~~
  - e. d. To have present an Advisor during the hearing and to consult with such Advisor during the hearing, and have the Advisor conduct cross-examination and other questioning on behalf of the Party at the hearing.
  - f. ~~To testify at the hearing or refuse to testify at the hearing.~~
  - e. ~~To have an Advisor of the University's selection appointed for a Party where the Party does not have an Advisor of their own choice at a hearing.~~
  - f. To testify at the hearing or refuse to testify at the hearing; however, if a Party or witness fails to submit to cross-examination at the hearing, the Hearing Panel shall not rely on any statement of that Party or witness in reaching a determination regarding responsibility. The Hearing Panel shall not draw any inference about the determination regarding responsibility based solely on a Party's or witness's failure to submit to cross-examination.
  - g. ~~To have an equal opportunity to present witnesses and documents deemed relevant by the Chair.~~

~~h.g. To question witnesses, including fact and expert witnesses, and present and testifying at the hearing. See Section 600.030.N. below for limitations on directly questioning the Complainant relevant evidence.~~

~~h. To request that the hearing be held virtually, with technology enabling participants simultaneously to see and hear each other.~~

16. Additional Rights for Academic Medical Center Process:

a. To receive notice of the meeting with the decision-maker.

b. To submit written, relevant questions that a Party wants asked of any Party or witness and to be provided with the answers to such questions.

c. To be allowed additional, limited follow-up questions.

**K. Role of Support Persons and Advisors.**

14-1. **Support Persons.** Each Complainant and Respondent is allowed to have one Advisor/Support Person of their choice present with them for all Equity Resolution/Title IX Process interviews, and meetings and proceedings. The Parties may select ~~whichever~~whomever they wish to serve as their Advisor/Support Person, including an attorney or parent. ~~An Advisor is not required and any Party. The Support Person may elect to proceed without an~~also act as the Party's Advisor.

~~If requested by either the student Complainant or Party, the Respondent, the Equity Officer or Title IX Coordinator will~~may assign a ~~trained Advisor to provide support throughout the Equity Resolution Process.~~Trained Support Person to explain the Title IX process and attend interviews and meetings with a Party. University ~~trained Advisors~~Trained Support Person(s) are administrators, faculty, or staff at the University trained on the ~~Equity Resolution Process.~~Title IX Process. A Trained 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 a Trained Support Person.

14-2. **Advisors.** Each Party may have an Advisor of their choice present at the hearing to conduct cross-examination and other questioning for that Party. A Party may not directly question any other Party or any witness; all cross-examination and other questioning on behalf of a Party must be conducted by their Advisor. The Advisor may be, but is not required to be, an attorney. If a Party does not have an Advisor of their choice present at the hearing, the University will provide, without fee or charge to that Party, an Advisor of the University's choice to conduct cross-examination and other questioning on behalf of that Party. The Parties may not require that the assigned Advisor have specific qualifications such as being an attorney.

~~The~~At the hearing, a Party's Advisor may ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. An Advisor may conduct cross-examination and other questioning for



a Party, and object to questions on limited grounds as specified in the Rules of Decorum. The Advisor may not make a presentation or otherwise represent the Complainant or the Respondent during the hearing. At the hearing, the Parties are expected to ask and respond to questions on their own behalf, without representation by their Advisor. The Advisor may consult with the advisee Party quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the advisee to the hearing panelists. Party, other than to conduct cross-examination or other questioning for the Party. Advisors who do not follow these guidelines the Rules of Decorum will be warned or dismissed from the hearing at the discretion of the chair. Hearing Officer.

4. Investigation. If, following the preliminary investigation, a Complainant or the University wants to pursue a formal investigation, if a Formal Complaint is filed, then the Equity Officer or Title IX Coordinator (depending on the nature of the Complaint) will promptly appoint a trained Investigator or a team of trained Investigators to investigate.

~~Within ten (10) business days after commencement of the formal investigation, the Investigator(s) will provide the Parties with written notice identifying the nature of the allegation(s) against the Respondent and stating that an investigation has commenced, either: (1) in person, (2) by email only to the Party's University-issued email account if the Party has consented in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official University records and emailed to the Party's University-issued email account. If there is no local address on file, mail will be sent to the Party's permanent address. Notice is presumptively deemed delivered, when: 1) provided in person 2) emailed to the individual (when prior consent—whether electronically or in writing—has been given to receipt of all notifications by email) or 3) when mailed and emailed.~~

~~The Parties are allowed to have an Advisor of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings in which they participate. All investigations will be thorough, reliable and impartial. The Investigator(s) will make reasonable efforts to include 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 or Title IX Coordinator (depending on the nature of the Complaint). This report may contain the Investigator's observations regarding the credibility of the Complainant, the Respondent, and any witnesses interviewed.~~

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

For purposes of the Investigation, 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 Title IX process.

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

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

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

The Parties shall be permitted to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching any determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source and copies of recordings of all interviews conducted during the investigation, in sufficient time for the Parties to meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the University will make available to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the Parties will have ten (10) business days to submit a written response to the Investigator, which the Investigator will consider prior to completion of the investigative report.

The final investigative report will fairly summarize the relevant evidence, and prior to a hearing or other time of determination regarding responsibility, the investigator will send to each Party and the Party's Advisor, if any, the final investigative report in an electronic format or a hard copy, for their review and written response. If a written response is received from either Party, that response will be shared with the other Party and their Advisor, if any.

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 ~~misconduct~~sexual harassment should be completed expeditiously, normally within thirty (30) business days of the ~~Equity Officer or Title IX Coordinator's decision to accept the filing of the Formal~~ Complaint ~~for formal investigation.~~ Investigation of a Formal Complaint may take longer based on the nature and circumstances of the Formal Complaint.

- M. **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 Title IX Coordinator will not wait for the conclusion of a criminal investigation or criminal proceeding to begin the Title IX process. However, a Title IX 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 ~~Summary Resolution~~ delayed, the Title IX Coordinator will promptly resume the Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence-gathering process. The Title IX Coordinator 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 or sexual harassment.

- N. **Dismissal of a Formal Complaint.** During or upon the completion of the investigation, the ~~Equity Officer or Title IX Coordinator~~ will review the ~~investigation, which may include meeting with the Investigator(s).~~ The Formal Complaint and the investigative report, if available, to determine if the Formal Complaint is ~~not provided to the Parties during the Summary Resolution, but is provided to the Parties at either the Administrative Resolution or Hearing Panel Resolution. Based on that review, the Equity Officer or Title IX Coordinator 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~~subject to dismissal. A Formal Complaint shall be dismissed: (1) if the conduct alleged in the Formal Complaint would not constitute sexual harassment, as defined in CRR 600.020 even if proved; (2) the conduct alleged in the Formal Complaint did not occur in the University's ~~Anti-Discrimination Policies~~ education program or activity, or (3) the conduct alleged in the Formal Complaint did not occur against a person in the United States. A dismissal under this provision does not preclude action under other applicable University processes.

A Formal Complaint or any allegations therein, may be dismissed at any time during the investigation or hearing if (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed by the University; or (3) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or the allegations therein.

Upon a dismissal required or permitted under this provision, the University will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the Parties. Either Party may appeal a dismissal as set forth in Section U herein.

If the ~~Equity Officer or~~ Title IX Coordinator determines there is a sufficient basis to proceed with the Formal Complaint, then the ~~Equity Officer or~~ Title IX Coordinator will direct the process to continue. The Formal Complaint will then be resolved through ~~one of three processes: Conflict~~Informal Resolution, ~~Administrative Resolution,~~ or Hearing Panel Resolution, or the Academic Medical Center (AMC) Process, if applicable. ~~There is no right to request reconsideration or appeal the summary determination to continue the process.~~

**O. Informal Resolution.** Upon the filing of a Formal Complaint, the Parties may choose to engage in Informal Resolution. The decision of the Parties to engage in Informal Resolution must be voluntary, informed, and in writing. The Parties are not required to engage in Informal 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 Formal Complaint or a right to a hearing process, or ~~Academic Medical Center (AMC) Process, if applicable.~~ At any time prior to agreeing to (or in Administrative Resolution, rendering of) a final resolution, any Party has the right to withdraw from the Informal Resolution process and the matter will be referred back for further investigation and/or hearing as may be applicable.

Informal Resolution is never available to resolve allegations that an employee sexually harassed a student.

In If the Equity Officer or Title IX Coordinator 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 or Title IX Coordinator may counsel and suggest monitoring or training opportunities to correct for inappropriate behavior that does not rise to the level of a violation.

~~The Complainant may request reconsideration of the summary determination ending the process by filing a written request with the Equity Resolution Appellate Officer within five (5) business days of notice of the summary determination. If the Equity Resolution appellate Officer decides there is a sufficient basis to proceed with the Complaint, the equity Resolution Appellate Officer will reverse~~

the determination ending the process and direct the process to continue. The Complaint will then be resolved through one of three processes: Conflict Resolution, Administrative Resolution, or Hearing Panel Resolution. This determination to continue the process lies in the sole discretion of the Equity Resolution Appellate Officer and such determination is final. Further appeal of such determination is not permitted.

Informal Resolution, which includes mediation or facilitated dialogue, a neutral  
~~If~~ the Equity Resolution Appellate Officer agrees with the summary determination ending the process by the Equity Officer or Title IX Coordinator and that there is an insufficient basis to proceed with the Complaint, then the process will end and the Complainant and the Respondent will be sent written notification of the determination. This determination to end the process lies in the sole discretion of the Equity Resolution Appellate Officer and such determination is final. Further appeal of such determinations is not permitted.

J. ~~Conflict Resolution.~~ Either Party may request Conflict Resolution at any time during the Equity Resolution Process, including during the preliminary investigation. Upon receiving such a request, or of their own accord, the Equity Officer or Title IX Coordinator 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 the Conflict Resolution. Conflict Resolution is often used for less serious, yet inappropriate behaviors and is encouraged as an alternative to the Administrative Resolution or Hearing Panel Resolution processes to resolve conflicts. Mediation is never utilized in cases involving allegations of nonconsensual sexual intercourse or nonconsensual sexual contact. It is not necessary to pursue Conflict Resolution prior to pursuing either Administrative Resolution or Hearing Panel and either Party can stop the Conflict Resolution process at any time and request either the Administrative Resolution or Hearing Panel process.

~~In a Conflict Resolution meeting, a neutral, University assigned~~ facilitator will foster a dialogue with the Parties to an effective resolution, if possible. The Complainant's and the Respondent's ~~Advisor~~Support Persons may attend the ~~conflict~~Informal Resolution meeting. The ~~Equity Officer~~ 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 Title IX Coordinator for review and referral to the appropriate University Process for discipline or sanctions. The Title IX Coordinator will keep records of any resolution-Informal Resolution that is reached, and failure to abide by the agreed-upon resolution may result in sanctions.

In the event the Parties are unable to reach a mutually agreeable resolution, the matter will be referred back for further investigation ~~will be referred to the Administrative Resolution and/or Hearing Panel Resolution process~~hearing as appropriate may be applicable. The content of the Parties' discussions during the ~~conflict~~Informal Resolution Process will be kept confidential in the event the matter proceeds to the ~~Administrative Resolution or Hearing Panel processes~~hearing process. The Parties' agreement to participate, refusal to participate in, or termination of participation in ~~Conflict~~Informal Resolution shall not be factors in any subsequent decisions regarding whether a policy violation occurred.

Among ~~these~~the resolutions which may be reached at this stage ~~(or at any point prior to a finding through Administrative or Hearing Panel Resolution),~~ the Respondent may voluntarily request to permanently separate from the University of Missouri System. If the ~~Equity Officer or~~ Title IX Coordinator accepts the Respondent's proposal, the Respondent must sign a Voluntary Permanent Separation and General Release agreement to effectuate their separation and terminate the ~~Equity Resolution~~Title IX Process.

**P. Procedural Details for Administrative Resolution and Hearing Panel. The Parties may mutually choose to participate in a type of Informal Resolution. For both the called Administrative Resolution and Hearing Panel. The Administrative Resolution, which are described in more detail below process is not available where a student has alleged that an employee sexually harassed the student. The Administrative Resolution process is not available to Academic Medical Centers (AMC).**

The Administrative Resolution process is a process whereby the decision-maker will meet separately with the Parties and their 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. The decision of the Parties to participate in Administrative Resolution must be voluntary, informed and in writing provided to the investigator, and must include a knowing written waiver of their right to a hearing under the Title IX process. However, either Party may choose to leave the process and opt for a hearing at any time before a final determination has been rendered. In addition, the following will apply to the Administrative Resolution process:

1. The standard of proof will be "preponderance of the evidence," defined as determining whether the evidence shows it is more likely than not that a policy violation occurred.
- ~~2. Three members of the organization may represent the Respondent Student Organization as the Party.~~
- ~~3.2.~~ The decision-maker (i.e., the Investigator, Equity Officer, Title IX Coordinator, or Hearing Panel Chair) has 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:
  - ~~a. Questioning or evidence about the Complainant's prior sexual conduct is not permitted, though the decision maker may grant a limited exception in regards to the sexual history between the Parties, if deemed relevant.~~
  - a. 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.

- b. 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 ~~the Complainant or the Respondent's~~ Party's character is of limited utility and shall not be admitted unless deemed relevant by the decision-maker.
  - c. Incidents or behaviors of the Respondent 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 the Respondent that shows a pattern may be considered only if deemed relevant by the decision-maker.
- ~~4. The Respondent may not directly question the Complainant and the Complainant may not directly question the Respondent. However, if both Complainant and Respondent 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.~~
- d. 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.
  - e. The decision-maker 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.
- ~~5-3. In the Administrative Resolution Process, the Respondent and the Complainant may provide a list of questions for the ~~Equity Officer or Title IX Coordinator~~ 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 to such questions will be shared with the requesting Party.~~
- ~~6. The Administrative Resolution Process may be used when both Parties elect to resolve the Complaint using the Administrative Resolution Process.~~
- ~~7-4. At any time prior to ~~the deadline in the Notice of Administrative Resolution~~ a final determination being rendered, the Complainant and/or the Respondent may request that the Formal Complaint shift from the Administrative Resolution Process to the Hearing Panel Resolution Process. Upon receipt of such timely request from either Party, the Formal Complaint will shift to the Hearing Panel Resolution Process.~~
- ~~8. The Resolution Processes will proceed regardless of whether the Respondent chooses to participate in the investigation, the finding or the hearing.~~
- ~~9-5. The Administrative Resolution ~~or Hearing Panel Resolution~~ PROCESS will normally be completed within sixty (60) business days of the ~~Equity Officer or Title IX~~~~

~~Coordinator's decision to accept-maker's receipt of the Formal Complaint for formal investigation.~~ Deviations from this timeframe will be promptly communicated to both Parties.

~~10.6.~~ For good cause, the ~~Equity Officer or Title IX Coordinator~~ decision-maker in the ~~Administrative Resolution Process and the Chair of the Hearing Panel in the Hearing Panel Resolution Process~~ may, in their discretion, grant reasonable extensions to the time frames and limits provided.

~~0. Administrative~~ The Administration Resolution:

~~1. Administrative Resolution by the Equity Officer or Title IX Coordinator can be pursued for any behavior that falls within the University's Anti-Discrimination Policies. Administrative Resolution may be used when both Parties elect to resolve the Complaint using the Administrative Resolution Process.~~

~~11.7.~~ The Administrative Resolution Process PROCESS consists of:

a. A prompt, thorough and impartial investigation;

b. A separate meeting with each Party and their Support Person, if any, and the decision-maker;

~~b.c.~~ A written finding by the Equity Officer or Title IX Coordinator decision-maker on each of the alleged policy violations;

~~e.d.~~ A written finding by the Equity Officer or Title IX Coordinator decision-maker on sanctions and remedial actions for findings of responsibility; and

e. The decision-maker shall be as follows:

(1) For Student or Student Organization Respondents and Staff Respondents, the decision-maker will be the Title IX Coordinator;

(2) For Faculty Respondents, the decision-maker will be as follows:

(a) The Title IX Coordinator will act as decision-maker and make recommendation(s) on findings of responsibility and sanctions and remedial actions, if applicable, to the Provost who will be the final decision-maker.

(b) The Title IX Coordinator has the option to request that a designee from the Provost's office act as decision-maker in Administrative Resolution and make recommendation(s) regarding findings of responsibility and sanctions and remedial actions, if applicable, to the Provost who will be the final decision-maker.

8. At least ~~fourteen (14)~~ fifteen (15) business days prior to meeting with the ~~Equity Officer or Title IX Coordinator or decision-maker~~ or if no meeting is requested, at least ~~fourteen (14)~~ fifteen (15) business days prior to the ~~Equity Officer or Title IX Coordinator~~ decision-maker rendering a finding(s) (or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the Parties), the ~~Equity Officer or Title IX Coordinator~~, the Title IX Coordinator or Provost's designee, if applicable, will send a letter (Notice of Administrative Resolution) to the Parties with the following information:

a. A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.



b. The name of the decision-maker.

b.c. Reference to or attachment of the applicable procedures.

e.d. A copy of the final investigative report.

d.e. The option and deadline of ten (10) business days from the date of the notice to request a meeting with the ~~Equity Officer or Title IX Coordinator~~decision-maker.

e.f. An indication that the Parties may have the assistance of ~~an Advisor~~a Support Person of their choosing at the meeting, though the ~~Advisor's~~Support Person's attendance at the meeting is the responsibility of the respective Parties.

f. ~~The option~~sanctions of expulsion and ~~the deadline of ten (10) business days from the date of the notice to request in writing that the matter be referred to the Hearing Panel Resolution Process. If neither Party requests the Hearing Panel Resolution Process within the required time period, the matter will be decided through~~termination are not available sanctions under the Administrative Resolution Process and the right to the Hearing Panel Resolution Process is waived.

~~9. Within ten (10) business days from the date of the Notice of process in this Policy.~~

~~Further, any suspension of a student under this Administrative Resolution, the Parties have the right to have the matter referred to the Hearing Panel Resolution Process. If neither Party requests the Hearing Panel Resolution Process within the required time period, the matter will be decided through the Administrative Resolution Process and the right to the Hearing Panel Resolution Process is waived.~~

~~10.9. The Investigator(s) will provide an investigative report to the Equity Officer or Title IX Coordinator and Parties. This report process shall not exceed two (2) years. Any suspension of an employee under this Administrative Resolution process may include the Investigator's observations regarding the credibility of the Complainant, the Respondent, and any witnesses interviewed~~be without pay, but may not exceed ten (10) business days.

~~11.10. The Equity Officer or Title IX Coordinator~~The decision-maker can, but is not required to, meet with and question the Investigator and any identified witnesses. ~~The Equity Officer or Title IX Coordinator~~The decision-maker may request that the Investigator conduct additional interviews and/or gather additional information. The ~~Equity Officer or Title IX Coordinator~~decision-maker will ~~attempt to~~ meet separately with the Complainant and the Respondent, and their 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 ~~Equity Officer or Title IX Coordinator~~decision-maker will render a finding that the individual is in violation of University policy for the admitted conduct. For any disputed violations, the ~~Equity Officer or Title IX Coordinator~~decision-maker will render a finding utilizingusing the preponderance of the evidence standard. The ~~Equity Office or Title IX Coordinator~~decision-maker will also determine appropriate sanctions or remedial actions. ~~The findings and sanctions are subject to appeal.~~

~~42.11.~~ The ~~Equity Office or Title IX Coordinator~~decision-maker will inform the Respondent and the Complainant simultaneously of the finding on each of the alleged policy violations and the finding of sanctions, if applicable, in writing ~~within five (5) business days of to the findings, without significant time delay between notifications. The Notification will be made in writing and will be delivered either: (1) in person, (2) Parties~~ by email ~~only~~ to the Party's University-issued email account ~~if, or by the method of notification previously designated in writing by the Party has consented in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official University records and emailed to the Party's University-issued email account. If there is no local address on file, mail will be sent to the Party's permanent address.~~ Notice is presumptively deemed delivered, when: 1) provided in person, 2) emailed to the individual (to their University-issued email account, or 3) when prior consent— ~~whether electronically or in writing—has been given to receipt of all notifications by email) or 3) when mailed and emailed.~~ sent via the alternate method of notification specified by the Party.

12. Either Party may appeal a decision under Administrative Resolution in accordance with Section U of this policy.

**Q. Hearing Panel Resolution.** This process is not available for Academic Medical Centers. See Section R.

**1. Equity Resolution Hearing Panelist Pool.** ~~The~~Each University will create and annually train a pool of not less than ~~ten (10) five (5)~~ faculty and ~~ten (10) five (5)~~ administrators and/or staff to serve as hearing panel members in the Hearing Panel Resolution Process. The faculty hearing panel pool members selected by the Chancellor (or Designee) shall be selected from a list of no less than ~~twenty (20) ten (10)~~ faculty members proposed by the faculty council/senate. ~~Panelists~~Pool members are selected by the Chancellor (or Designee) and serve a renewable one-year term. ~~Panelist selections should~~ Selection of hearing panel pool members shall be made with attention an attempt to representation of groups protected by recognize the University's Anti-Discrimination Policies, diversity of the University community. Hearing Panel members from one campus University may be asked to serve on a hearing panel involving another campus University.

The Chancellor (or Designee) will select a Hearing Panelist Pool Chair ("Pool Chair"). The Pool Chair ~~assigns~~randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Formal Complaint ~~and designates the Chair of the Hearing Panel for a specific Complaint.~~ The Pool Chair may serve as a panel member ~~or the Chair of the Hearing Panel~~ for a specific Formal Complaint.

Administrators, faculty, and staff will be removed from the Hearing Panelist Pool if they fail to satisfy the annual training requirements, as determined by the ~~Equity Officer or~~ Title IX Coordinator. Under such circumstances, the ~~Equity Officer or~~ Title IX

Coordinator will notify the Chancellor (or Designee), who will inform the administrator, faculty, or staff member of the discontinuation of their term.

~~4-2.~~ **Equity Resolution Title IX Hearing Panel (“Hearing Panel”).** When a Formal Complaint is not resolved through ~~the Administrative~~ an Informal Resolution Process, the Hearing Panelist Pool Chair will ~~assign three (3)~~ randomly select two (2) members from the Hearing Panelist Pool to serve on the specific Hearing Panel ~~and will also designate the Chair of~~ together with the Hearing Panel. ~~Whenever possible, Officer. A good faith attempt will be made for~~ the Hearing Panel ~~shall to~~ include at least one faculty member and one administrator or staff member. Up to two (2) alternates may be designated to sit in throughout the process as needed. The ~~Chair of the Hearing Panel helps ensure that the process adheres materially to the procedural elements of the Hearing Panel Resolution Process. The institution~~ University reserves the right to have its attorney ~~or attorneys~~ present during the hearing and during deliberations to advise the Hearing Panel.

~~2-3.~~ **Notice of Hearing.**

a. At least ~~fourteen (14)~~ twenty (20) business days prior to the hearing, ~~or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the Parties, the Equity Officer or the~~ Title IX Coordinator will send a letter (Notice of Hearing) to the Parties with the following information:

(1) A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.

(2) ~~Reference to or attachment~~ A description of the applicable procedures.

(3) ~~An indication~~ A statement that the Parties may have the assistance of an Advisor of their choosing, at the hearing, ~~though; that~~ the Advisor’s attendance at the hearing is the responsibility Party’s Advisor will conduct all cross-examination and other questioning of the respective Parties other Party and all witnesses on behalf of the Party they are advising; that if the Party does not have an Advisor, an Advisor will be provided by the University for the purpose of conducting cross-examination and other questioning for that Party; and the Advisor may be, but is not required to be, an attorney.

(4) The time, date and location of the hearing.

(5) A list of the names of each of the Hearing Panel members, including the Hearing Officer, and alternates, and information on how to raise an objection to any member of the Hearing Panel and the timeline in which to raise any objections.

~~(6) A copy of the preliminary/final~~ investigative report or summary.

~~(6) This Notice of Hearing letter will be made in writing and will be delivered either: (1) in person, (2) by email only~~ exhibits.

~~(7) Notification to the Party’s University issued email account if the Party has consented in writing to receipt of Parties that all notifications by email; or (3) mailed to of the evidence gathered in the mailing address~~ COURSE of the respective party as indicated in investigation that is directly related to the official University

~~records~~allegations including inculpatory and ~~emailed~~exculpatory evidence, is available to the Party's University-issued email account. If there is no local address on file, mail will be Parties and instructions regarding how to request access to that evidence.

(8) Notice that if a Party or witness does not submit to cross-examination at the hearing, the decision-maker(s) must not rely on any statement of that Party or witness in reaching a determination regarding responsibility, but no inference can be drawn from the fact that a Party or witness failed to submit to cross-examination.

(9) Notice that the Parties may request a virtual hearing and/or any necessary accommodations.

- b. The Notice of Hearing letter will be sent to ~~the Party's permanent address.~~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 prior consent — whether electronically or in writing — has been given to receipt of all notifications by email) or 3) when mailed and emailed.~~sent via the alternate method of notification specified by the Party.

#### ~~3-4.~~ **Pre-Hearing Witness List and Documentary Evidence.**

a. At least ~~seven (7)~~fifteen (15) business days prior to the hearing, the Complainant and Respondent will provide to the Investigator a list of the names of the proposed witnesses and copies of all proposed documentary evidence. ~~At least five (5) business days prior to the hearing, the Investigator will have the names of proposed witnesses, copies of all pertinent documentary evidence and a copy of any investigative report available for the Complainant and Respondent, and a copy of the same will be sent to the Hearing Panel Chair.~~ that a Party intends to call or use at the hearing.

b. At least ten (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.

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

#### ~~4-5.~~ **Objection to or Recusal of Hearing Panel Member.**

a. ~~In addition, the Parties will be given a list of the names of each of the Hearing Panel members at least fourteen (14) business days in advance of the hearing.~~Hearing Panel members, including the Hearing Officer, shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If a Hearing Panel member or Hearing Officer feels that they

have a conflict of interest or bias, or cannot make an objective determination, they must recuse themselves from the proceedings in advance of the hearing.

a.b. The Parties will have been given the names of the Hearing Panel members, including the Hearing Officer, in the Notice of Hearing. Should any Complainant or Respondent object to any panelist, they must raise all objections, in writing, to the ~~Hearing Panelist Chair~~ Title IX Coordinator at least ~~seven~~ seven (7) fifteen (15) business days prior to the hearing.

b.c. Upon receipt, the Investigator will forward to the Hearing Panelist Pool Chair any written objection by the Complainant or the Respondent to any hearing panel member. Hearing Panel members will only be unseated and replaced if the ~~Hearing Panelist Pool Chair~~ Title IX Coordinator concludes that good cause exists for the removal of a panel member. Good cause may include, but is not limited to, bias that would preclude an impartial hearing or circumstances in which the ~~panel~~ Hearing Panel member's involvement could impact the Party's work or learning environment due to current or potential interactions with the ~~panel~~ Hearing Panel member (e.g., a panel member being in the same department as either Party). ~~Additionally, any panel~~ If the Title IX Coordinator determines that a Hearing Panel member ~~or, other than the Hearing Officer, should be unseated and replaced, then Title IX Coordinator will ask the Hearing Panel Pool Chair of the Hearing Panel who feels they cannot make an objective determination must recuse themselves to~~ randomly select another member from the ~~proceedings in advance of the hearing~~ pool to serve on the Hearing Panel. The Title IX Coordinator will select an alternate Hearing Officer if they determine that the Hearing Officer should be replaced. The Title IX Coordinator will provide a written response to all Parties addressing any objections to the Hearing Panel members, including the Hearing Officer.

**5-6. Request for Alternative Attendance or Questioning Mechanisms.** ~~The Chair~~ All hearings will be live. However, at the request of ~~the Hearing Panel, in consultation~~ either Party or by the University's designation, the live hearing may occur with the Parties and Investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if ~~located in separate rooms with technology enabling the Hearing Officer and the Hearing Panel, including the Hearing Officer, and their~~ testimony can be adequately summarized by the ~~legal advisor, if any, the Parties and their Advisors, and the Investigator(s) in the investigative report~~ or, to simultaneously see and hear the Party or the witness answering questions. Should any hearing take place in this manner, the Title IX Coordinator (or Designee) shall be in charge of the technology during the hearing. ~~All Parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross examination is not used between the Parties. If alternative attendance or questioning mechanisms are desired (e.g., screens, Skype, questions directed through the Chair, etc.), the Parties should request them from the Chair at least two (2) business days prior to the hearing.~~ The University will make reasonable accommodations for ~~both~~ the Parties in keeping with the principles of equity and fairness.

~~6-7.~~ **Requests to Reschedule the Hearing Date.** For good cause, the ~~Chair of the Hearing Panel~~ Title IX Coordinator may grant requests to reschedule the hearing date.

**8. Pre-Hearing Matters.**

- a. At least ten (10) business days prior to the hearing date, a Party shall inform the Title IX Coordinator whether the Party intends to bring an Advisor of their choice to the hearing.
- b. At least ten (10) business days prior to the hearing date, a Party shall inform the Title IX Coordinator whether the Party is requesting accommodations for the hearing.
- c. At least five (5) business days prior to the hearing date, the final investigative report and all exhibits will be provided to the Hearing Panel members.

**9. Pre-Hearing Meeting.** Unless otherwise agreed by the Parties and the Hearing Officer, a pre-hearing meeting may be scheduled one hour prior to the start of the hearing between the Hearing Officer and Parties' Advisors. Parties may, but are not required to, be in attendance at this meeting.

~~7-10.~~ **Conduct of Hearing.** ~~The Chair of~~ The Hearing Officer shall participate on the Hearing Panel ("Chair" in this subsection) shall and preside at the hearing, call the hearing to order, call the roll of the Hearing Panel and alternates in attendance, ascertain the presence or absence of the Investigator, the Complainant and the Respondent, confirm receipt of ~~notice~~ the Notice of hearing Allegations and Notice of Hearing by the Parties, report any extensions requested or granted and establish the presence of any Advisors. ~~Formal rules of evidence shall not apply.~~

a. ~~Investigator's Report and Testimony.~~ **Order of Evidence.** ~~The investigator(s)~~ order of evidence shall generally be the following:

(1) The Complainant will proceed first present the written investigative report and and may give a narrative report of the investigation, and verbal statement of their allegations of sexual harassment against the Respondent. The Hearing Panel may next ask questions of the Complainant. The Complainant will then be subject to questioning cross-examination by the Complainant, Advisor of the Respondent and the Hearing Panel. The investigator(s) Complainant may also call witnesses who will be subject to questioning by the Advisor of the Complainant, questioning by the Hearing Panel, and cross-examination by the Advisor of the Respondent. The Complainant may also submit documentary evidence.

(2) The Respondent will proceed next and may give a verbal statement in response to the allegations of sexual harassment made by the Complainant. The Hearing Panel may next ask questions of the Respondent. The Respondent will be subject to cross-examination by the Advisor of the Complainant. The Respondent may also call witnesses who will be subject to questioning by the Advisor of the Respondent, questioning by the Hearing Panel, and cross-examination by the Advisor of the Complainant. The Respondent may also submit documentary evidence.

~~(1)(3)~~ The Investigator will then be available to answer questions of the Hearing Panel. The Investigator will ~~then~~next be subject to cross-examination by the Advisors of the Complainant and the Respondent. The Investigator, may also call witnesses who will be subject to questioning by the Hearing Panel, and cross-examination by the Advisors of the Complainant, ~~the and Respondent and the Hearing Panel.~~ The Investigator may also submit documentary evidence. ~~The investigator(s) will remain present during the entire hearing process.~~

~~b. Complainant's Evidence.~~ The Complainant may give testimony and be subject to questioning by the Investigator, the Respondent (through the Chair as discussed above) and the Hearing Panel. The Complainant may also call and question witnesses who may also be questioned by the Respondent, Investigator, and the Hearing Panel. The Complainant may also submit documentary evidence.

~~(4) Respondent's Evidence.~~ The Respondent may give testimony and be subject to questioning by the Investigator, the Complainant (through the Chair as discussed above) and the Hearing Panel. The Respondent may also call and question witnesses who may also then be questioned by the Complainant, the Investigator and the Hearing Panel. The Hearing Panel may ask questions of the Parties or any witnesses including the Investigator at any time during the hearing.

~~(1) The Respondent may also submit documentary evidence.~~

~~e.b. Record of Hearing.~~ The ~~Chair of the Hearing Panel~~Title IX Coordinator shall arrange for an audio or audiovisual recording of the hearing, whether by audio, video, digital or stenographic means. The recording of the hearing will become part of the Record of the Case ~~in the Section 600.030 Process.~~

#### 11. ~~Rights of the Hearing Panel~~Process Rules.

a. The formal rules of evidence shall not apply to any live hearing.

b. 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.

c. 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 Hearing Officer.

d. 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 Hearing Officer.

- e. 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.
- d.f. The Hearing Officer 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.
- g. The relevancy and admissibility of any evidence offered at the hearing shall be determined by the ~~Chair~~ Hearing Officer, whose ruling shall be final ~~unless the Chair shall present the~~.
- h. A Party's Advisor will be permitted to ask the other Party and any witnesses relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question ~~to as~~ not relevant. ~~Where the Hearing Panel at the request of Officer permits a member of question to be answered, a presumption shall be made that the Hearing Panel, Officer determined that the question was relevant.~~
- e.i. The Party's Advisors may object to questions on limited grounds as specified in which event, the Rules of Decorum. The Hearing Officer will rule on such objections and that ruling of the Hearing Panel by majority vote shall be final.
- ~~f. To question witnesses or evidence introduced by the Investigator, the Complainant or the Respondent at any time during the hearing process.~~
- ~~g. To call additional witnesses and submit documentary evidence.~~
- ~~h. To exclude a witness proposed by the Investigator, the Complainant or the Respondent if it is determined their testimony would be redundant or not relevant.~~
- i.j. ~~To~~ The Hearing Officer may dismiss any person from the hearing who ~~interfere~~ interferes with or obstructs the hearing, fails to adhere to the Rules of Decorum, or fails to abide by the rulings of the ~~Chair of the Hearing Panel ("Chair" in this subsection).~~ Officer.
- ~~j. To arrange for alternative attendance or questioning mechanisms for either Party or any witness at the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.).~~
- ~~k. To have present a legal advisor to the Hearing Panel, who shall be designated by the Office of the General Counsel.~~
- ~~l. To have the names of witnesses that may be called by the Investigator, the Complainant and the Respondent, all pertinent documentary evidence that may be introduced by those Parties, and a complete copy of the investigative report at least five (5) business days prior to the hearing.~~
- m.k. Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the ~~Chair, whose ruling shall~~



~~be final unless the Chair shall present the question to the Hearing Panel at the request of a member of the Hearing Panel, in which event, the ruling of the Hearing Panel by majority vote shall be final.~~ Hearing Officer, whose ruling shall be final.

**8-12. Findings of the Hearing Panel.**

a. The Hearing Panel will deliberate with no others present, except any legal advisor to the Hearing Panel, to find whether the Respondent is responsible or not responsible for the policy violation(s) in question. The ~~panel~~ Hearing 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~~ Hearing Panel, the ~~panel~~ Hearing Panel will ~~find~~ determine appropriate sanctions and remedial actions by a majority vote.

b. The Hearing ~~Panel~~ Chair/Officer will prepare a written ~~panel report and determination reflecting the decision of the Hearing Panel regarding responsibility, sanctions and remedial actions, if any~~ (“Hearing Panel Decision”), and deliver it to the ~~Equity Officer or~~ Title IX Coordinator detailing the ~~finding, how following:~~

- (1) Identification of the allegations potentially constituting sexual harassment as defined in CRR 600.020;
- (2) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence and hearings held;
- (3) Findings of fact supporting the determination;
- (4) Conclusions regarding the application of the University’s Title IX Policies to the facts;
- (5) A statement of, and rationale for, the result as to each ~~member voted, the information cited allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University’s education programs or activities will be provided by the panel in support of its finding and any information the University to the Complainant; and~~
- (6) The procedures and permissible bases for the Complainant and the Respondent to appeal.

~~b.c.~~ The Hearing Panel ~~excluded from its consideration and why. If the Respondent is found responsible, the report should conclude with sanctions. This report~~ Decision should be submitted to the ~~Equity Officer or~~ Title IX Coordinator within five (5) business days of the end of deliberations. ~~Deviation~~ Deviations from the five-day period will be communicated by the Hearing Officer to the Parties, and the ~~Equity Officer or~~ Title IX Coordinator, along with an expected time for completion. The Hearing Panel Decision will be provided to the Title IX Coordinator who will provide it to the Parties simultaneously within five (5) business days of receipt of the decision.

- d. ~~The Equity Officer~~ Hearing Panel Decision 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.
- e. The Hearing Panel Decision will become final either on the date that the Parties are provided with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
- f. ~~The Title IX Coordinator will inform the Respondent~~ is responsible for effective implementation of any remedies.

#### **R. Process for Academic Medical Centers (AMC)**

1. Academic Medical Centers at the University of Missouri are not required to provide for a live hearing, but rather must adhere to the following process for resolving Formal Complaints alleging Title IX violations.
2. The decision-maker(s) for the Title IX Process for Academic Medical Centers shall be a neutral, impartial, and unbiased decision-maker designated by the Complainant Executive Vice Chancellor for Health Affairs.
3. **Notice of the finding on AMC Meeting.** ~~The decision-maker will meet separately with each Party. At least fifteen (15) business days prior to the initial meeting with the decision-maker, the Title IX Coordinator will send a letter (Notice of AMC Meeting) to the Parties with the following information:~~
  - a. A description of the alleged policy-violations violation(s) and the finding on sanctions for findings of responsibility, if applicable, within five (5) business days of receipt policy or policies that are alleged to have been violated.
  - b. A description of the panel applicable procedures.
  - c. A statement that the Parties may be accompanied by a Support Person of their choosing at the AMC Meeting.
  - d. The time, date and location of the AMC Meeting.
  - e. The name of the decision-maker, and information on how to raise an objection to the decision-maker and the timeline in which to raise any objections.
  - f. A copy of the investigative report, without significant time delay between notifications, and exhibits.
  - g. Notification to the Parties that all of the evidence gathered in the course of the investigation that is directly related to the allegations, including inculpatory and exculpatory evidence, is available to the Parties and how to request access to that evidence.
4. The Notice of AMC Meeting letter will be made in writing and will be delivered: (1) in person, (2) sent to each Party by email only to the Party's their University-issued email account if the Party has consented, or by the method of notification previously designated in writing to receipt of all notifications by email; or (3) mailed

~~to the mailing address of the respective Party as indicated in the official University records and emailed to the Party's University issued email account. If there is no local address on file, mail will be sent to the Party's permanent address by the Party.~~ Notice is presumptively deemed delivered, when: 1) provided in person, 2) emailed to the individual ~~(when to their University-issued email account, or 3) when sent via the alternate method of notification specified by the Party.~~

5. ~~At least fifteen (15) business days prior consent to the initial AMC Meeting, the Investigator will provide to the Parties access to all evidence gathered in the investigation which is directly related to the allegations in the Formal Complaint, including any evidence upon which the Investigator does not intend to rely, and inculpatory and exculpatory evidence whether electronically or obtained from a Party or other source, copies of recordings of all interviews conducted during the investigation, and a copy of any investigative report.~~
6. ~~At least ten (10) business days prior to the initial AMC Meeting, the Complainant and Respondent may provide the decision-maker with written, relevant questions the Party wants asked of any Party or witness. At least five (5) business days prior to the initial AMC Meeting, the decision-maker will provide each Party with the answers, and allow for additional, limited follow-up questions from each Party. The decision-maker must explain to the Party proposing the questions any decision to exclude a question as not relevant. The Parties may also provide the decision-maker with documentary evidence.~~
7. ~~No employee or student, directly or through others, should take any action which may interfere with the investigation or the AMC process. 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.~~
8. ~~The decision-maker shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If a decision-maker feels that they have a conflict of interest or bias, or cannot make an objective determination, they must recuse themselves from the proceedings in advance of the AMC meeting.~~
9. ~~At least ten (10) business days prior to the initial AMC Meeting, the Parties shall provide to the Title IX Coordinator all objections in writing to the decision-maker identified in the Notice of AMC Meeting. If the Title IX Coordinator determines that the decision-maker should be replaced, the Title IX Coordinator will select an alternate decision-maker. The Title IX Coordinator will provide a written response to all Parties addressing the objections.~~
10. ~~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.~~

11. 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 Hearing Officer.
12. 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 Hearing Officer.
13. 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.
14. The decision-maker 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 been given to-waived the privilege.
15. All meetings between the decision-maker and Parties and/or witnesses shall be recorded.
16. Within ten (10) business days of the last meeting with any Party or witness, the decision-maker must issue a written determination regarding responsibility, applying the— preponderance of the evidence standard of evidence. The written determination must include:
  - a. Identification of the allegations potentially constituting sexual harassment as defined in CRR 600.020.
  - b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications by email) or 2) when mailed and to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and meetings held;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of the Title IX policies to the facts;
  - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether any remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
  - f. The University's procedures and permissible bases for the Complainant and Respondent to appeal as set forth in Section U.
17. The written determination will be provided to the Title IX Coordinator, who will provide it to the Parties simultaneously within five (5) business days of receipt of the determination. Notification will be made in writing and 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.

18. The determination becomes final either on the date that the University provides the Parties with the written determination of the result of the appeal, if any appeal is filed, or if any appeal is not filed, the date on which an appeal would no longer be considered timely.

19. The Title IX Coordinator is responsible for effective implementation of any remedies.

## **S. Sanctions and Remedial Actions.**

### **Sanctions.**

1. If the Respondent is found responsible for a violation of the University's ~~Anti-Discrimination Title IX~~ Policies, the Hearing Panel, or the ~~Equity Officer or Title IX Coordinator~~ decision-maker in the Administrative Resolution Process ~~or Academic Medical Center Process~~, will determine sanctions and remedial actions. The ~~Equity Officer or~~ Title IX Coordinator will apply and enforce the sanctions and remedial actions and may also add other remedial actions as deemed appropriate.

a. Factors Considered When Finding Sanctions/Remedial Actions include but are not limited to:

- (1) The nature, severity of, and circumstances surrounding the violation;
- (2) The disciplinary history of the Respondent;
- (3) The need for sanctions/remedial actions to bring an end to the ~~discrimination, harassment and/or retaliation~~ conduct;
- (4) The need for sanctions/remedial actions to prevent the future recurrence of ~~discrimination, harassment~~ the conduct; and ~~or retaliation~~; and
- (5) The need to remedy the effects of the ~~discrimination, harassment and/or retaliation~~ conduct on the Complainant and the University community.

2. **Types of Sanctions.** The following sanctions may be imposed upon any Respondent ~~or Respondent Student Organization~~ found to have violated the University's ~~Anti-Discrimination Title IX~~ Policies ~~or the Student Conduct Code~~. Multiple sanctions may be imposed for any single violation. Sanctions include but are not limited to the following:

**a. For Respondents who are Student(s) or Student Organization(s):**

- (1) **Warning.** A notice in writing to the Respondent ~~or Respondent Student Organization~~ that there is or has been a violation of institutional regulations, and cautioning that if there are further violations, the existence of the Warning may result in more severe sanctions in the future.
- (2) **Probation.** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe sanctions if the Respondent ~~or Respondent Student Organization~~ is found to be violating any institutional regulation(s) during the probationary period.

- (3) **Loss of Privileges.** Denial of specified privileges for a designated period of time.
- (4) **Restitution.** Compensating the University for loss, damage, or injury to University property. This may take the form of appropriate service and/or monetary or material replacement.
- (5) **Discretionary Sanctions.** Work assignments, service to the University, or other related discretionary assignments, or completion of educational programming ~~or counseling.~~
- (6) **Residence Hall Suspension.** Separation of the Respondent from the residence halls for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.
- (7) **Residence Hall Expulsion.** Permanent separation of the Respondent from the residence halls.
- (8) **Campus ~~suspension~~Suspension.** Respondent is suspended from being allowed on a specific University campus for a definite period of time. Logistical modifications consistent with the sanction imposed, may be granted at the discretion of the Chief Student Affairs Officer (or Designee).
- ~~(1) **University Dismissal.** An involuntary separation of the Respondent from the institution for misconduct. It is less than permanent in nature and does not imply or state a minimum separation time.~~
- (9) **University ~~System~~ Suspension.** Separation of the Respondent from the University System for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.
- (10) **Withdrawal of Recognition.** Respondent Student Organization loses its Official Approval as a recognized student organization. May be either temporary or permanent.
- (11) **University System Expulsion.** Permanent and complete separation (i.e., not eligible for online courses either) of the Respondent from the University System.

**b. For Respondents who are Employee(s):**

- (1) Warning – verbal or written;
- (2) Performance improvement plan;
- (3) Required counseling;
- (4) Required training or education;
- (5) Loss of annual pay increase;
- (6) Loss of supervisory responsibility;
- (7) Recommendation of discipline in a training program, including recommendation of termination, suspension or other corrective or remedial actions;
- (8) For Non-Regular Faculty, immediate termination of term contract and employment;
- (9) For Regular, Untenured Faculty, immediate termination of term contract and employment. Notice of not reappointing would not be required;
- (10) Suspension without pay;

(11) Non-renewal of appointment;

(12) For Regular, Tenured Faculty, suspension without pay, removal from campus and referral to the Chancellor to initiate dismissal for cause as detailed in Section 310.060 of the Collected Rules and Regulations;

(13) For Staff, Demotion;

(14) For Staff, Termination.

- c. **Remedial Actions.** The following remedial actions may also be imposed to address the effects of the violation(s) of the University's ~~Anti-Discrimination~~ Title IX Policies on the Complainant. Such remedial actions will vary depending on the circumstances of the policy violation(s), but may include:

(1) Where the Complainant is a student:

- (a) Permitting the student to retake courses;
- (b) Providing tuition reimbursement;
- (c) Providing additional academic support;
- (d) Removal of a disciplinary action; and
- (e) Providing educational and/or on-campus housing accommodations.

(2) Where the Complainant is an employee:

- (a) Removal of a disciplinary action;
- (b) Modification of a performance review;
- (c) Adjustment in pay;
- (d) Changes to the employee's reporting relationships; and
- (e) Workplace accommodations.

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~~ Title IX Policies.

~~d. **When Implemented.** Sanctions and remedial actions are implemented immediately by the Equity Officer or Title IX Coordinator unless the Chancellor stays their implementation pending the outcome of the appeal.~~

d. **When Implemented.** Sanctions will be imposed once the written determination regarding responsibility becomes final; the determination regarding responsibility is final either on the date that the Parties are provided with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

**T. Withdrawal While Charges Pending.** Should a Respondent decide to resign employment, or withdraw from the University and not participate in the investigation and/or hearing without signing a Voluntary Permanent Separation and General Release Agreement and without the approval of the ~~Equity Officer or~~ Title IX Coordinator, the Formal Complaint may be dismissed, or the Title IX Coordinator may determine that the process will nonetheless proceed in the Respondent's absence to a reasonable resolution and, if the Respondent is found responsible, the Respondent will not be permitted to return to the University unless all sanctions have been satisfied.

#### **U. Appeal.**

1. **Grounds for Appeal.** Both Complainant and Respondent are allowed to appeal the ~~dismissal of a Formal Complaint or any of the allegations therein, or the~~ findings of the Administrative Resolution Process ~~or, the~~ Hearing Panel Resolution Process, ~~or the Academic Medical Center process.~~ Appeals are limited to the following:
  - a. A procedural ~~error occurred~~irregularity that ~~significantly impacted~~affected the outcome of the ~~Administrative or Hearing Panel Resolution Process~~matter (e.g., ~~substantiated bias, material deviation from established procedures, etc.~~);
  - b. To consider new evidence, ~~unavailable during the original hearing. Administrative or Hearing Panel Resolution Process~~ that was not reasonably available at the time the determination regarding responsibility or ~~investigation~~dismissal was made, that could ~~substantially impact the original finding~~affect the outcome of the matter;
  - b-c. The Title IX Coordinator, Investigator(s), or ~~sanction~~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
  - e-d. The sanctions fall outside the range typically imposed for this offense, or for the cumulative conduct record of the Respondent.
2. **Requests for Appeal.** Both the Complainant and the Respondent may ~~submit a request for~~ appeal a dismissal of a Formal Complaint or any allegations therein, or a determination regarding responsibility 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) 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 Panel Appellate Officer within ~~three~~ (3) five (5) business days of the delivery of the ~~findings~~notice of dismissal or Administrative Resolution Decision, Hearing Panel Decision, or AMC Determination. When any Party requests an appeal, the other Party (~~Parties~~) will be notified and receive a copy of the request for appeal.
3. **Response to Request for Appeal.** Within ~~three~~ (3) five (5) business days of the delivery of the notice and copy of the request for appeal, the non-appealing Party (~~Parties~~) may file a response to the request for appeal. The 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). ~~The Equity Resolution Appellate Officer will then review the request for appeal.~~ to determine whether:
  - a. The request is timely, and
  - b. The appeal is on the basis of ~~the~~ any of ~~three~~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 ~~fourteen (14)~~ fifteen (15) business days from receipt of the request for appeal. If no written decision is provided to the Parties within ~~fourteen (14)~~ fifteen (15) business days from receipt of the request, the appeal will be deemed accepted.

5. **Review of the Appeal.** If all three (3) 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 Formal Complaint and are therefore deferential to the original findings. In most cases, appeals are confined to a review of the written documentation and ~~record~~ Record of the ~~Administrative Resolution or Hearing Panel Resolution~~ Case, and ~~pertinent~~ relevant documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original decision-maker for reconsideration.

~~b. Sanctions and remedial actions are implemented immediately unless the Equity Resolution Hearing Panel or Appellate Officer (or Designee) stays their implementation pending the outcome of the appeal.~~

~~e.b.~~ b. The Equity Resolution Appellate Officer will ~~normally~~ render a written decision on the appeal to all Parties within ten (10) business days from accepting the request for appeal. 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.c.~~ c. Once an appeal is decided, the outcome is final. Further appeals 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.

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

Dismissal for Cause process, or withdrawal of recognition from the University. Suspension will only be lifted when compliance is achieved to the satisfaction of the ~~Equity Officer or~~ Title IX Coordinator.

**W. Dismissal for Cause Referral.** If the recommended sanction for a Regular, Tenured Faculty member is referral to the Chancellor to initiate Dismissal for Cause, the Record of the Case will be forwarded to the appropriate Faculty Committee on Tenure. Because the Dismissal for Cause proceeding is not a re-hearing of the Complaint, the Record of the Case will be included as evidence and the findings will be adopted for proceeding as detailed in Section 310.060: Procedures in Case of Dismissal for Cause in the Collected Rules and Regulations.

**X. Records.** In implementing this policy, records of all Formal Complaints, the Hearing Process or Academic Medical Center Process, and resolutions, and hearings (including Informal resolution and result therefrom), will be kept by the ~~Equity Officer or~~ Title IX Coordinator (depending on the nature of the Complaint). An audio, video, digital, or stenographic record of the hearings will be maintained and will be filed in the office of the Equity Officer or Title IX Coordinator and, for, For the purpose of review or appeal, ~~be the Record of the Case will be~~ accessible at reasonable times and places to the Respondent and the Complainant. ~~The "Record of the Case in the Section 600.030 Process" includes, when applicable: Letter(s) of Notice, exhibits, hearing record (an audio, video, digital or stenographic record The Record of the hearing), and the findings and determination by either the Equity Officer or Title IX Coordinator or the Hearing Panel; the finding of sanctions; and the decision of appeal, if applicable. The Record of the Case in the Section 600.030 Process~~ Case will be kept for seven (7) years following final resolution.

In addition, a record of the response to all complaints of sexual harassment, must be maintained for a period of seven (7) years, including records of any actions, including Supportive Measures, taken in response to a report or Formal Complaint of sexual harassment. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education programs or activities. If the University did not provide a Complainant with Supportive Measures, the University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Each Title IX Coordinator, including the Title IX Coordinator for the academic medical center, shall maintain statistical, de-identified data on the race, gender and age of each Party to a Formal 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

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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.

**Y. Retaliation.** ~~Retaliation is any adverse action taken~~ No person may intimidate, threaten, coerce, or discriminate against a person because any individual for the purpose of that person's participation in protected activity. The University strictly prohibits retaliation against interfering with any person for making any good faith report of discrimination, harassment, or sexual misconduct right or for filing, testifying, assisting, or participating in any privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding involving allegations of, or hearing under this policy. 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 Formal Complaint of sexual harassment, or sexual misconduct. Any person for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The University must keep confidential the identity of any individual 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 has made a report or complaint of sex discrimination, including any individual who believes they have has made a report or filed a Formal Complaint of sexual harassment, any Complainant, any individual who has been subjected 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 retaliation is encouraged to promptly notify carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed with the Equity Officer or Title IX Coordinator, in accordance with CRRs 600.010, 600.040, and 600.050.

The University will promptly investigate all complaints of 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 the 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.

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## **600.030 Resolution Process for Resolving Complaints of Sexual Harassment under Title IX**

Executive Order 41, 9-22-14; Revised 2-09-17 with effective date of 3-1-17; Revised 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 Title IX policies.
- B. **Jurisdiction.** Jurisdiction of the University of Missouri under the Title IX policies shall be limited to sexual harassment which occurs in an education program or activity of the University of Missouri against a person in the United States. For purposes of this policy, "education program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the conduct occurs, and includes any building owned or controlled by a student organization that is officially recognized by the University. This policy does not apply to sexual harassment which occurs outside of the United States, even when the conduct occurs in an education program or activity of the University.

If a Complainant alleges or the investigation suggests that another University policy violation 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 violations of other University policies pursuant to this process. In conducting such investigations, the Title IX Coordinator(s), and/or their Investigator may consult with and/or seek guidance from the Equity Officer, Student Conduct Coordinator, or other University officials as appropriate. If the allegations in a Formal Complaint that fall under this policy are dismissed, the University may discontinue the process under this policy and proceed under the applicable University procedure for all remaining allegations in the Formal Complaint.

### **C. Definitions:**

1. **Academic Medical Center.** University of Missouri Hospitals and Clinics, and other Academic Medical Centers as may be designated by the University in the future.
2. **Academic Medical Center Resolution Process.** Resolution of a Formal Complaint by a decision-maker making a finding on each of the alleged policy violations and a finding on sanctions.
3. **Administrative Resolution.** A voluntary informal resolution process where a decision-maker makes a finding on each of the alleged policy violations in a Formal Complaint and a finding on sanctions without a hearing.
4. **Advisors.** The individuals selected by the Complainant and the Respondent, or if a Party does not have their own Advisor, selected by the University, to conduct all cross-examination and other questioning on behalf of a Party at a hearing; an Advisor may, but is not required to, be an attorney.

5. **Alternate Methods of Notice:** Methods of providing Notice to a Party other than in person or by email to the Party's University email account; these include email to another email account specified by the Party, or a Party's designation of an address to which Notice may be mailed via U.S. Mail; a Party seeking to designate an Alternate Method of Notice must provide such designation in writing to the Title IX Coordinator.
6. **Complainant.** "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
7. **Emergency Removal Appeal Individual/Committee:** An individual or committee of three (3) individuals appointed by the Chancellor (or Designee) to hear appeals of an Emergency Removal decision by the Title IX Coordinator.
8. **Equity Resolution Appellate Officer.** For Staff, Student(s) or Student Organization Respondents, a trained, senior-level administrator appointed by the Chancellor (or Designee) to hear all appeals stemming from the Title IX Resolution Process. For Faculty Respondents, the Chancellor (or Designee).
9. **Equity Resolution Hearing Panel ("Hearing Panel").** A group of two (2) trained Equity Resolution Hearing Panelist Pool members who, together with the Hearing Officer, serve as the Hearing Panel for a specific Formal Complaint. A good faith attempt will be made for the Hearing Panel to include at least one faculty member and one administrator or staff member. The Hearing Officer shall serve as the Chair of the Hearing Panel.
10. **Equity Resolution Hearing Panelists Pool ("Hearing Panelist Pool").** A group of at least five (5) faculty and five (5) administrators and/or staff selected by the Chancellor (or Designee) to serve as hearing panel members in the Hearing Panel Resolution process. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than ten (10) faculty members proposed by the faculty council/senate. Selection of hearing panel pool members shall be made with an attempt to recognize the diversity of the University community. Hearing Panel members from one University may be asked to serve on a hearing panel involving another University.
11. **Formal Complaint.** Formal Complaint means a written document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment. The phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or 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 Formal Complaint.
12. **Hearing Officer.** A trained individual appointed by the Chancellor (or Designee) to preside over a hearing and act as a member of the Hearing Panel, and to rule on objections and the relevancy of questions and evidence during the hearing.

13. **Hearing Panel Decision.** Resolution of a Formal Complaint by an Equity Resolution Hearing Panel recommending or making a finding on each of the alleged policy violations and sanctions, if applicable.
14. **Hearing Panelist Pool Chair (“Pool Chair”).** The Hearing Panelist Pool Chair is selected by the Chancellor (or Designee). The Pool Chair randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Formal Complaint. The Pool Chair may serve as a panel member for a specific Formal Complaint.
15. **Informal Resolution.** A voluntary resolution process using alternative dispute resolution mechanisms such as mediation, facilitated dialogue, administrative resolution, or restorative justice.
16. **Investigators.** Investigators are trained individuals appointed by the Title IX Coordinator (or designee) to conduct investigations of the alleged violations of the University’s Title IX Policies.
17. **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.
18. **Record of the Case.** The Record of the Case in the Section 600.030 Process includes, when applicable: All Notices to the Parties; investigative report; recordings of Party and witness interviews; exhibits used at a hearing or at the Academic Medical Center (AMC) Meeting; recordings of meetings between the AMC decision-maker and Parties and witnesses, if any; the hearing record (an audio or audiovisual record of the hearing); any determination of dismissal of all or part of a Formal Complaint; the determination on each of the alleged policy violations and sanctions by either the Hearing Panel or decision-maker; and the decision on the appeal, if any, including the request for appeal, any additional evidence submitted for the appeal, and written arguments of the Parties.
19. **Report.** Any verbal or written communication or notice of an alleged violation of the University’s Title IX Policies.
20. **Respondent.** Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
21. **Rules of Decorum.** Hearing process rules to which Parties and their Advisors must adhere during any Hearing under this policy.
22. **Student.** A person having once been admitted to the University who has not completed a course of study and who intends to or does continue a course of study in or through one of the Universities of the University System. For the purpose of these rules, student status continues whether or not the University’s academic programs are in session.
23. **Student Organization.** A recognized student organization which has received Official Approval in accordance with Section 250.010 of the Collected Rules and Regulations. Three members of the organization may represent the student organization as the Party.
24. **Support Person.** An individual selected by a Party to accompany the Party to all meetings and interviews to provide support for the Party throughout the Title IX

Process. A Support Person may not attend a hearing under the Title IX process unless also serving as a Party's Advisor.

25. **Title IX Coordinator.** The Title IX Coordinator is a trained administrator designated by the Chancellor (or Designee) to respond to reports of sexual harassment; and to receive and assist with the Title IX process for Formal Complaints alleging violation of the University's Sexual Harassment in Employment/Education Policy. All references to "Title IX Coordinator" throughout this policy refer to the Title IX Coordinator or the Title IX Coordinator's designee.
26. **University's Title IX Policies.** The University's Title IX Policies include this Policy and the Sexual Harassment in Employment/Education Policy located at Section 600.020 of the Collected Rules and Regulations (CRR).

- D. **Making a Report.** Any person (whether or not the person reporting is the Complainant) may report sexual harassment to the Title IX Coordinator. Such Reports 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 Title IX Coordinator, by an online portal set up by the University for this purpose, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Individuals may also contact University 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.
- E. **Preliminary Contact.** Upon receiving a Report, the Title IX Coordinator 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 the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. If the identity of the Complainant is unknown, the Title IX Coordinator may conduct a limited investigation sufficient to identify the Complainant to the extent possible.
- F. **Filing of a Formal Complaint.** A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth in CRR 600.020, or through an online portal provided for this purpose by the University. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in an education program or activity of the University.

The Title IX Coordinator may sign a Formal Complaint when they believe that with or without the Complainant's desire to participate in this process, a non-deliberately indifferent response to the allegations requires an investigation. Where the Title IX



Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a Party under this policy.

If the Respondent files a Formal Complaint against the Complainant within ten (10) business days of the date of the Notice of Allegations where the allegations of sexual harassment in both Formal Complaints arise out of the same facts or circumstances, the University will consolidate the Formal Complaints for purposes of investigation and resolution in accordance with this policy.

The University may consolidate Formal Complaints as to allegations of sexual 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 sexual harassment arise out of the same facts or circumstances. If the Respondent files a Formal Complaint against the Complainant more than ten (10) business days after the date of the Notice of Allegations where the allegations of sexual harassment in both Formal Complaints arise out of the same facts or circumstances, the University may consolidate the Formal Complaints for purposes of investigation and resolution in accordance with this policy. 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.

**G. Notice of Allegations:**

1. Upon receipt of a Formal Complaint, the Title IX Coordinator will provide a written notice to the known Parties that includes the following:
  - a. A description of the University's Title IX Process, including Informal Resolution;
  - b. Notice of the allegations of sexual 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 sexual 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 Title IX process.
  - d. A statement reminding the Respondent that they have the right to file a report or Formal Complaint with the Title IX Coordinator; however, both Parties are advised that retaliation against any Party is prohibited.
  - e. A statement notifying the Parties of the availability of Supportive Measures.
  - f. A statement notifying the Parties of their right to have an Advisor of their choice, who may be, but is not required to be, an attorney. The Parties will be advised that if they do not have an Advisor to conduct cross-examination at a hearing on their behalf, the University will appoint such an Advisor; this Advisor may be, but is not required to be, an attorney. (This provision does not apply to matters proceeding under the process for Academic Medical Centers set forth in Section R).

- g. A statement notifying the Parties that they may have a Support Person selected by a Party accompany the Party to all meetings and interviews to provide support for the Party throughout the Title IX Process. A Support Person may not attend a hearing under the Title IX process unless also serving as a Party's Advisor.
  - h. 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 Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and including inculpatory and exculpatory evidence whether obtained from a Party or other source.
  - i. 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 Title IX 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.
  - j. A statement that nothing in the Title IX 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.
  - k. A statement informing a Party that all notices hereafter will be sent via their University-issued email account, unless they provide to the Title IX Coordinator an alternate method of notification. If a Party does not have a University-issued email account, all notices will be via U.S. Mail unless they provide the Title IX Coordinator 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.

H. **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 Formal Complaint or where no Formal Complaint has been filed. These 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 education environment, or deter sexual 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 Title IX Coordinator 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 the 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 Emergency Removal of a Respondent from the University's education program or activity on an emergency basis, if the Title IX Coordinator, after conducting an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, justifies removal.
  - a. In all cases in which an Emergency Removal is imposed, the Respondent will immediately be given notice and an opportunity to challenge the decision of the Title IX Coordinator either prior to such Removal being imposed, or as soon thereafter as reasonably possible but no later than five (5) business days, to show cause why the removal should not be implemented. Any such challenge shall be made in writing and directed to the Title IX Coordinator who will forward such challenge to the Emergency Removal Appeal Individual/Committee, which will make a final decision on removal within three (3) business days.
  - b. Violation of an Emergency Removal under this policy may be grounds for discipline.
10. Suspending, on an interim basis, a Respondent Student Organization's operations, University recognition, access to and use of the University campus/facilities/events and/or all other University activities or privileges for which the Respondent Student Organization might otherwise be eligible, pending the completion of the Title IX Process when the Title IX Coordinator finds and believes from available information that the presence of the student organization on campus would seriously disrupt the University or constitute a danger to the health, safety, or welfare of members of the University community. The appropriate procedure to

determine the future status of the student organization will be initiated within seven (7) business days.

11. Implementing an administrative leave for an employee in accordance with University Human Resources Policies. Administrative leave for an employee is not an Emergency Removal under this policy.

I. **Employees and Students Participating in the Title IX 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 but not limited to the Investigator, Title IX Coordinator, the Hearing Panel and/or the Equity Resolution Appellate Officer, and all documentary evidence must be genuine and accurate. False statements or fraudulent evidence provided in this process, including but not limited to the Investigator, Title IX Coordinator, Hearing Panel 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 the provisions of 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. Nothing in this provision is intended to require a Party or witness to participate in the process. 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 attempting to or actually intimidating or harassing any potential witness. Failure to adhere to these requirements may lead to disciplinary action, up to and including expulsion or termination.

J. **Rights of the Parties in the Title IX 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 a Support Person of the Party's choice accompany the party to all interviews and meetings (excluding hearings) throughout the Title IX Process.
6. To refuse to have an allegation resolved through the Informal Resolution Processes.
7. 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.

8. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
9. To have Formal Complaints heard in substantial accordance with these procedures.
10. To receive written notice of any delay of this process or limited extension of time frames for good cause which may include considerations such as the absence of a Party, a Party's Advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
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 the dismissal of all or a portion of a Formal Complaint, and appeal the determination of a Hearing Panel or other decision-maker.
14. Additional Rights for Students as a Party:
  - a. To request reasonable housing, living and other accommodations and remedies consistent with Section 600.030.H.
  - b. To receive amnesty for minor student misconduct that is ancillary to the incident, at the discretion of the Title IX Coordinator.
15. Additional Rights for Hearing Panel Resolution:
  - a. To receive notice of a hearing.
  - b. 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.
  - c. To be present at the hearing, which right may be waived by either written notification to the Hearing Officer or by failure to appear.
  - d. To have present an Advisor during the hearing and to consult with such Advisor during the hearing, and have the Advisor conduct cross-examination and other questioning on behalf of the Party at the hearing.
  - e. To have an Advisor of the University's selection appointed for a Party where the Party does not have an Advisor of their own choice at a hearing.
  - f. To testify at the hearing or refuse to testify at the hearing; however, if a Party or witness fails to submit to cross-examination at the hearing, the Hearing Panel shall not rely on any statement of that Party or witness in reaching a determination regarding responsibility. The Hearing Panel shall not draw any inference about the determination regarding responsibility based solely on a Party's or witness's failure to submit to cross-examination.
  - g. To have an equal opportunity to present and question witnesses, including fact and expert witnesses, and present relevant evidence.
  - h. To request that the hearing be held virtually, with technology enabling participants simultaneously to see and hear each other.
16. Additional Rights for Academic Medical Center Process:
  - a. To receive notice of the meeting with the decision-maker.

- b. To submit written, relevant questions that a Party wants asked of any Party or witness and to be provided with the answers to such questions.
- c. To be allowed additional, limited follow-up questions.

**K. Role of Support Persons and Advisors.**

1. **Support Persons.** Each Complainant and Respondent is allowed to have one Support Person of their choice present with them for all Title IX Process interviews and meetings. The Parties may select whomever they wish to serve as their Support Person, including an attorney or parent. The Support Person may also act as the Party's Advisor.

If requested by a student Party, the Title IX Coordinator may assign a Trained Support Person to explain the Title IX process and attend interviews and meetings with a Party. University Trained Support Person(s) are administrators, faculty, or staff at the University trained on the Title IX Process. A Trained 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 a Trained Support Person.

2. **Advisors.** Each Party may have an Advisor of their choice present at the hearing to conduct cross-examination and other questioning for that Party. A Party may not directly question any other Party or any witness; all cross-examination and other questioning on behalf of a Party must be conducted by their Advisor. The Advisor may be, but is not required to be, an attorney. If a Party does not have an Advisor of their choice present at the hearing, the University will provide, without fee or charge to that Party, an Advisor of the University's choice to conduct cross-examination and other questioning on behalf of that Party. The Parties may not require that the assigned Advisor have specific qualifications such as being an attorney.

At the hearing, a Party's Advisor may ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. An Advisor may conduct cross-examination and other questioning for a Party, and object to questions on limited grounds as specified in the Rules of Decorum. The Advisor may not make a presentation or otherwise represent the Complainant or the Respondent during the hearing. The Advisor may consult with the Party quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the Party, other than to conduct cross-examination or other questioning for the Party. Advisors who do not follow the Rules of Decorum will be warned or dismissed from the hearing at the discretion of the Hearing Officer.

- L. **Investigation.** If a Formal Complaint is filed, then the Title IX Coordinator will promptly appoint a trained Investigator or a team of trained Investigators to investigate.

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

For purposes of the Investigation, 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 Title IX process.

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

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

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

The Parties shall be permitted to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching any determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source and copies of recordings of all interviews conducted during the investigation, in sufficient time for the Parties to meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the University will make available to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the Parties will have ten (10) business days to submit a written response to the Investigator, which the Investigator will consider prior to completion of the investigative report.

The final investigative report will fairly summarize the relevant evidence, and prior to a hearing or other time of determination regarding responsibility, the investigator will send to each Party and the Party's Advisor, if any, the final investigative report in an

electronic format or a hard copy, for their review and written response. If a written response is received from either Party, that response will be shared with the other Party and their Advisor, if any.

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

**M. 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 Title IX Coordinator will not wait for the conclusion of a criminal investigation or criminal proceeding to begin the Title IX process. However, a Title IX 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 Title IX Coordinator will promptly resume the Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence-gathering process. The Title IX Coordinator 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 or sexual harassment.

**N. Dismissal of a Formal Complaint.** During or upon the completion of the investigation, the Title IX Coordinator will review the Formal Complaint and the investigative report, if available, to determine if the Formal Complaint is subject to dismissal. A Formal Complaint shall be dismissed: (1) if the conduct alleged in the Formal Complaint would not constitute sexual harassment, as defined in CRR 600.020 even if proved; (2) the conduct alleged in the Formal Complaint did not occur in the University's education program or activity, or (3) the conduct alleged in the Formal Complaint did not occur against a person in the United States. A dismissal under this provision does not preclude action under other applicable University processes.



A Formal Complaint or any allegations therein, may be dismissed at any time during the investigation or hearing if (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed by the University; or (3) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or the allegations therein.

Upon a dismissal required or permitted under this provision, the University will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the Parties. Either Party may appeal a dismissal as set forth in Section U herein.

If the Title IX Coordinator determines there is a sufficient basis to proceed with the Formal Complaint, then the Title IX Coordinator will direct the process to continue. The Formal Complaint will then be resolved through Informal Resolution or Hearing Panel Resolution, or the Academic Medical Center (AMC) Process, if applicable.

- O. **Informal Resolution.** Upon the filing of a Formal Complaint, the Parties may choose to engage in Informal Resolution. The decision of the Parties to engage in Informal Resolution must be voluntary, informed, and in writing. The Parties are not required to engage in Informal 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 Formal Complaint or a right to a hearing process, or AMC Process, if applicable. At any time prior to agreeing to (or in Administrative Resolution, rendering of) a final resolution, any Party has the right to withdraw from the Informal Resolution process and the matter will be referred back for further investigation and/or hearing as may be applicable.

Informal Resolution is never available to resolve allegations that an employee sexually harassed a student.

In Informal Resolution, which includes mediation or facilitated dialogue, a neutral facilitator will foster a dialogue with the Parties to an effective resolution, if possible. The Complainant's and the Respondent's Support Persons may attend the Informal 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 Title IX Coordinator for review and referral to the appropriate University Process for discipline or sanctions. The Title IX Coordinator will keep records of any Informal Resolution that is reached.

In the event the Parties are unable to reach a mutually agreeable resolution, the matter will be referred back for further investigation and/or hearing as may be applicable. The content of the Parties' discussions during the Informal Resolution Process will be kept confidential in the event the matter proceeds to the hearing process. The Parties'

agreement to participate, refusal to participate in, or termination of participation in Informal Resolution shall not be factors in any subsequent decisions regarding whether a policy violation occurred.

Among the resolutions which may be reached at this stage, the Respondent may voluntarily request to permanently separate from the University of Missouri System. If the Title IX Coordinator accepts the Respondent's proposal, the Respondent must sign a Voluntary Permanent Separation and General Release agreement to effectuate their separation and terminate the Title IX Process.

- P. Procedural Details for Administrative Resolution.** The Parties may mutually choose to participate in a type of Informal Resolution called Administrative Resolution. The Administrative Resolution process is not available where a student has alleged that an employee sexually harassed the student. The Administrative Resolution process is not available to Academic Medical Centers (AMC).

The Administrative Resolution process is a process whereby the decision-maker will meet separately with the Parties and their 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. The decision of the Parties to participate in Administrative Resolution must be voluntary, informed and in writing provided to the investigator, and must include a knowing written waiver of their right to a hearing under the Title IX process. However, either Party may choose to leave the process and opt for a hearing at any time before a final determination has been rendered. In addition, the following will apply to the Administrative Resolution process:

1. The standard of proof will be "preponderance of the evidence," defined as determining whether the evidence shows it is more likely than not that a policy violation occurred.
2. The decision-maker has 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:
  - a. 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.
  - b. 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-maker.
- c. Incidents or behaviors of the Respondent 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 the Respondent that shows a pattern may be considered only if deemed relevant by the decision-maker.
  - d. 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.
  - e. The decision-maker 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.
3. In the Administrative Resolution Process, the Respondent and the Complainant 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 to such questions will be shared with the requesting Party.
  4. At any time prior to a final determination being rendered, the Complainant and/or the Respondent may request that the Formal Complaint shift from the Administrative Resolution Process to the Hearing Panel Resolution Process. Upon receipt of such timely request from either Party, the Formal Complaint will shift to the Hearing Panel Resolution Process.
  5. The Administrative Resolution process will normally be completed within sixty (60) business days of the decision-maker's receipt of the Formal Complaint. Deviations from this timeframe will be promptly communicated to both Parties.
  6. For good cause, the decision-maker in the Administrative Resolution Process may, in their discretion, grant reasonable extensions to the time frames and limits provided.
  7. The Administration Resolution process consists of:
    - a. A prompt, thorough and impartial investigation;
    - b. A separate meeting with each Party and their Support Person, if any, and the decision-maker;
    - c. A written finding by the decision-maker on each of the alleged policy violations;
    - d. A written finding by the decision-maker on sanctions and remedial actions for findings of responsibility; and
    - e. The decision-maker shall be as follows:
      - (1) For Student or Student Organization Respondents and Staff Respondents, the decision-maker will be the Title IX Coordinator;
      - (2) For Faculty Respondents, the decision-maker will be as follows:

- (a) The Title IX Coordinator will act as decision-maker and make recommendation(s) on findings of responsibility and sanctions and remedial actions, if applicable, to the Provost who will be the final decision-maker.
  - (b) The Title IX Coordinator has the option to request that a designee from the Provost's office act as decision-maker in Administrative Resolution and make recommendation(s) regarding findings of responsibility and sanctions and remedial actions, if applicable, to the Provost who will be the final decision-maker.
- 8. At least fifteen (15) business days prior to meeting with the decision-maker or if no meeting is requested, at least fifteen (15) business days prior to the decision-maker rendering a finding(s), the Title IX Coordinator or Provost's designee, if applicable, will send a letter (Notice of Administrative Resolution) to the Parties with the following information:
  - a. A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
  - b. The name of the decision-maker.
  - c. Reference to or attachment of the applicable procedures.
  - d. A copy of the final investigative report.
  - e. The option and deadline of ten (10) business days from the date of the notice to request a meeting with the decision-maker.
  - f. An indication that the Parties may have the assistance of a Support Person of their choosing at the meeting, though the Support Person's attendance at the meeting is the responsibility of the respective Parties.
- 9. The sanctions of expulsion and termination are not available sanctions under the Administrative Resolution process in this Policy. Further, any suspension of a student under this Administrative Resolution process shall not exceed two (2) years. Any suspension of an employee under this Administrative Resolution process may be without pay, but may not exceed ten (10) business days.
- 10. The decision-maker can, but is not required to, meet with and question the Investigator and any identified witnesses. The decision-maker may request that the Investigator conduct additional interviews and/or gather additional information. The decision-maker will meet separately with the Complainant and the Respondent, and their 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-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 using the preponderance of the evidence standard. The decision-maker will also determine appropriate sanctions or remedial actions.
- 11. The decision-maker will inform the Respondent and the Complainant simultaneously of the finding on each of the alleged policy violations and the finding

of sanctions, if applicable, 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.

12. Either Party may appeal a decision under Administrative Resolution in accordance with Section U of this policy.

**Q. Hearing Panel Resolution.** This process is not available for Academic Medical Centers. See Section R.

1. **Equity Resolution Hearing Panelist Pool.** Each University will create and annually train a pool of not less than five (5) faculty and five (5) administrators and/or staff to serve as hearing panel members in the Hearing Panel Resolution Process. The faculty hearing panel pool members selected by the Chancellor (or Designee) shall be selected from a list of no less than ten (10) faculty members proposed by the faculty council/senate. Pool members are selected by the Chancellor (or Designee) and serve a renewable one-year term. Selection of hearing panel pool members shall be made with an attempt to recognize the diversity of the University community. Hearing Panel members from one University may be asked to serve on a hearing panel involving another University.

The Chancellor (or Designee) will select a Hearing Panelist Pool Chair ("Pool Chair"). The Pool Chair randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Formal Complaint. The Pool Chair may serve as a panel member for a specific Formal Complaint.

Administrators, faculty, and staff will be removed from the Hearing Panelist Pool if they fail to satisfy the annual training requirements, as determined by the Title IX Coordinator. Under such circumstances, the Title IX Coordinator will notify the Chancellor (or Designee), who will inform the administrator, faculty, or staff member of the discontinuation of their term.

2. **Title IX Hearing Panel ("Hearing Panel").** When a Formal Complaint is not resolved through an Informal Resolution process, the Hearing Panelist Pool Chair will randomly select two (2) members from the Hearing Panelist Pool to serve on the specific Hearing Panel together with the Hearing Officer. A good faith attempt will be made for the Hearing Panel to include at least one faculty member and one administrator or staff member. Up to two (2) alternates may be designated to sit in throughout the process as needed. The University reserves the right to have its attorney present during the hearing and during deliberations to advise the Hearing Panel.
3. **Notice of Hearing.**

- a. At least twenty (20) business days prior to the hearing, the Title IX Coordinator will send a letter (Notice of Hearing) to the Parties with the following information:
    - (1) A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
    - (2) A description of the applicable procedures.
    - (3) A statement that the Parties may have the assistance of an Advisor of their choosing, at the hearing; that the Party's Advisor will conduct all cross-examination and other questioning of the other Party and all witnesses on behalf of the Party they are advising; that if the Party does not have an Advisor, an Advisor will be provided by the University for the purpose of conducting cross-examination and other questioning for that Party; and the Advisor may be, but is not required to be, an attorney.
    - (4) The time, date and location of the hearing.
    - (5) A list of the names of each of the Hearing Panel members, including the Hearing Officer, and alternates, and information on how to raise an objection to any member of the Hearing Panel and the timeline in which to raise any objections.
    - (6) A copy of the final investigative report and exhibits.
    - (7) Notification to the Parties that all of the evidence gathered in the course of the investigation that is directly related to the allegations including inculpatory and exculpatory evidence, is available to the Parties and instructions regarding how to request access to that evidence.
    - (8) Notice that if a Party or witness does not submit to cross-examination at the hearing, the decision-maker(s) must not rely on any statement of that Party or witness in reaching a determination regarding responsibility, but no inference can be drawn from the fact that a Party or witness failed to submit to cross-examination.
    - (9) Notice that the Parties may request a virtual hearing and/or any necessary accommodations.
  - b. The Notice of Hearing letter 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.
4. **Pre-Hearing Witness List and Documentary Evidence.**
- a. At least fifteen (15) business days prior to the hearing, the Complainant and Respondent will provide to the Investigator a list of the names of the proposed witnesses and copies of all proposed documentary evidence that a Party intends to call or use at the hearing.

- b. At least ten (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.
  - c. No employee or student, directly or through others, should take any action which may interfere with the investigation or hearing procedures. 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.
5. **Objection to or Recusal of Hearing Panel Member.**
- a. Hearing Panel members, including the Hearing Officer, shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If a Hearing Panel member or Hearing Officer feels that they have a conflict of interest or bias, or cannot make an objective determination, they must recuse themselves from the proceedings in advance of the hearing.
  - b. The Parties will have been given the names of the Hearing Panel members, including the Hearing Officer, in the Notice of Hearing. Should any Complainant or Respondent object to any panelist, they must raise all objections, in writing, to the Title IX Coordinator at least fifteen (15) business days prior to the hearing.
  - c. Hearing Panel members will only be unseated and replaced if the Title IX Coordinator concludes that good cause exists for the removal of a panel member. Good cause may include, but is not limited to, bias that would preclude an impartial hearing or circumstances in which the Hearing Panel member's involvement could impact the Party's work or learning environment due to current or potential interactions with the Hearing Panel member (e.g., a panel member being in the same department as either Party). If the Title IX Coordinator determines that a Hearing Panel member, other than the Hearing Officer, should be unseated and replaced, then Title IX Coordinator will ask the Hearing Panel Pool Chair to randomly select another member from the pool to serve on the Hearing Panel. The Title IX Coordinator will select an alternate Hearing Officer if they determine that the Hearing Officer should be replaced. The Title IX Coordinator will provide a written response to all Parties addressing any objections to the Hearing Panel members, including the Hearing Officer.
6. **Alternative Attendance or Questioning Mechanisms.** All hearings will be live. However, at the request of either Party or by the University's designation, the live hearing may occur with the Parties located in separate rooms with technology enabling the Hearing Panel, including the Hearing Officer, and their legal advisor, if any, the Parties and their Advisors, and the Investigator, to simultaneously see and hear the Party or the witness answering questions. Should any hearing take place in this manner, the Title IX Coordinator (or Designee) shall be in charge of the technology during the hearing. The University will make reasonable

accommodations for the Parties in keeping with the principles of equity and fairness.

7. **Requests to Reschedule the Hearing Date.** For good cause, the Title IX Coordinator may grant requests to reschedule the hearing date.
8. **Pre-Hearing Matters.**
  - a. At least ten (10) business days prior to the hearing date, a Party shall inform the Title IX Coordinator whether the Party intends to bring an Advisor of their choice to the hearing.
  - b. At least ten (10) business days prior to the hearing date, a Party shall inform the Title IX Coordinator whether the Party is requesting accommodations for the hearing.
  - c. At least five (5) business days prior to the hearing date, the final investigative report and all exhibits will be provided to the Hearing Panel members.
9. **Pre-Hearing Meeting.** Unless otherwise agreed by the Parties and the Hearing Officer, a pre-hearing meeting may be scheduled one hour prior to the start of the hearing between the Hearing Officer and Parties' Advisors. Parties may, but are not required to, be in attendance at this meeting.
10. **Conduct of Hearing.** The Hearing Officer shall participate on the Hearing Panel and preside at the hearing, call the hearing to order, call the roll of the Hearing Panel and alternates in attendance, ascertain the presence or absence of the Investigator, the Complainant and the Respondent, confirm receipt of the Notice of Allegations and Notice of Hearing by the Parties, report any extensions requested or granted and establish the presence of any Advisors.
  - a. **Order of Evidence.** The order of evidence shall generally be the following:
    - (1) The Complainant will proceed first and may give a verbal statement of their allegations of sexual harassment against the Respondent. The Hearing Panel may next ask questions of the Complainant. The Complainant will then be subject to cross-examination by the Advisor of the Respondent. The Complainant may also call witnesses who will be subject to questioning by the Advisor of the Complainant, questioning by the Hearing Panel, and cross-examination by the Advisor of the Respondent. The Complainant may also submit documentary evidence.
    - (2) The Respondent will proceed next and may give a verbal statement in response to the allegations of sexual harassment made by the Complainant. The Hearing Panel may next ask questions of the Respondent. The Respondent will be subject to cross-examination by the Advisor of the Complainant. The Respondent may also call witnesses who will be subject to questioning by the Advisor of the Respondent, questioning by the Hearing Panel, and cross-examination by the Advisor of the Complainant. The Respondent may also submit documentary evidence.
    - (3) The Investigator will then be available to answer questions of the Hearing Panel. The Investigator will next be subject to cross-examination by the Advisors of the Complainant and the Respondent. The Investigator may



also call witnesses who will be subject to questioning by the Hearing Panel, and cross-examination by the Advisors of the Complainant and Respondent. The Investigator may also submit documentary evidence.

(4) The Hearing Panel may ask questions of the Parties or any witnesses including the Investigator at any time during the hearing.

- b. **Record of Hearing.** The Title IX Coordinator shall arrange for an audio or audiovisual recording of the hearing. The recording of the hearing will become part of the Record of the Case.

#### 11. **Hearing Process Rules.**

- a. The formal rules of evidence shall not apply to any live hearing.
- b. 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.
- c. 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 Hearing Officer.
- d. 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 Hearing Officer.
- e. 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.
- f. The Hearing Officer 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.
- g. The relevancy and admissibility of any evidence offered at the hearing shall be determined by the Hearing Officer, whose ruling shall be final.
- h. A Party's Advisor will be permitted to ask the other Party and any witnesses relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Where the Hearing Officer permits a question to be answered, a

presumption shall be made that the Hearing Officer determined that the question was relevant.

- i. The Party's Advisors may object to questions on limited grounds as specified in the Rules of Decorum. The Hearing Officer will rule on such objections and that ruling shall be final.
- j. The Hearing Officer may dismiss any person from the hearing who interferes with or obstructs the hearing, fails to adhere to the Rules of Decorum, or fails to abide by the rulings of the Hearing Officer.
- k. Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the Hearing Officer, whose ruling shall be final.

## **12. Findings of the Hearing Panel.**

- a. The Hearing Panel will deliberate with no others present, except any legal advisor to the Hearing Panel, to find whether the Respondent is responsible or not responsible for the policy violation(s) in question. The Hearing 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 Hearing Panel, the Hearing Panel will determine appropriate sanctions and remedial actions by a majority vote.
- b. The Hearing Officer will prepare a written determination reflecting the decision of the Hearing Panel regarding responsibility, sanctions and remedial actions, if any ("Hearing Panel Decision"), and deliver it to the Title IX Coordinator detailing the following:
  - (1) Identification of the allegations potentially constituting sexual harassment as defined in CRR 600.020;
  - (2) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence and hearings held;
  - (3) Findings of fact supporting the determination;
  - (4) Conclusions regarding the application of the University's Title IX Policies to the facts;
  - (5) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education programs or activities will be provided by the University to the Complainant; and
  - (6) The procedures and permissible bases for the Complainant and the Respondent to appeal.
- c. The Hearing Panel Decision should be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations. Deviations from the

- five-day period will be communicated by the Hearing Officer to the Parties and the Title IX Coordinator, along with an expected time for completion. The Hearing Panel Decision will be provided to the Title IX Coordinator who will provide it to the Parties simultaneously within five (5) business days of receipt of the decision.
- d. The Hearing Panel Decision 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.
  - e. The Hearing Panel Decision will become final either on the date that the Parties are provided with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
  - f. The Title IX Coordinator is responsible for effective implementation of any remedies.

#### **R. Process for Academic Medical Centers (AMC)**

1. Academic Medical Centers at the University of Missouri are not required to provide for a live hearing, but rather must adhere to the following process for resolving Formal Complaints alleging Title IX violations.
2. The decision-maker(s) for the Title IX Process for Academic Medical Centers shall be a neutral, impartial, and unbiased decision-maker designated by the Executive Vice Chancellor for Health Affairs.
3. **Notice of AMC Meeting.** The decision-maker will meet separately with each Party. At least fifteen (15) business days prior to the initial meeting with the decision-maker, the Title IX Coordinator will send a letter (Notice of AMC Meeting) to the Parties with the following information:
  - a. A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
  - b. A description of the applicable procedures.
  - c. A statement that the Parties may be accompanied by a Support Person of their choosing at the AMC Meeting.
  - d. The time, date and location of the AMC Meeting.
  - e. The name of the decision-maker, and information on how to raise an objection to the decision-maker and the timeline in which to raise any objections.
  - f. A copy of the investigative report and exhibits.
  - g. Notification to the Parties that all of the evidence gathered in the course of the investigation that is directly related to the allegations, including inculpatory and exculpatory evidence, is available to the Parties and how to request access to that evidence.

4. The Notice of AMC Meeting letter 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.
5. At least fifteen (15) business days prior to the initial AMC Meeting, the Investigator will provide to the Parties access to all evidence gathered in the investigation which is directly related to the allegations in the Formal Complaint, including any evidence upon which the Investigator does not intend to rely, and inculpatory and exculpatory evidence whether obtained from a Party or other source, copies of recordings of all interviews conducted during the investigation, and a copy of any investigative report.
6. At least ten (10) business days prior to the initial AMC Meeting, the Complainant and Respondent may provide the decision-maker with written, relevant questions the Party wants asked of any Party or witness. At least five (5) business days prior to the initial AMC Meeting, the decision-maker will provide each Party with the answers, and allow for additional, limited follow-up questions from each Party. The decision-maker must explain to the Party proposing the questions any decision to exclude a question as not relevant. The Parties may also provide the decision-maker with documentary evidence.
7. No employee or student, directly or through others, should take any action which may interfere with the investigation or the AMC process. 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.
8. The decision-maker shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If a decision-maker feels that they have a conflict of interest or bias, or cannot make an objective determination, they must recuse themselves from the proceedings in advance of the AMC meeting.
9. At least ten (10) business days prior to the initial AMC Meeting, the Parties shall provide to the Title IX Coordinator all objections in writing to the decision-maker identified in the Notice of AMC Meeting. If the Title IX Coordinator determines that the decision-maker should be replaced, the Title IX Coordinator will select an alternate decision-maker. The Title IX Coordinator will provide a written response to all Parties addressing the objections.
10. 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.
11. 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 Hearing Officer.
12. 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 Hearing Officer.
  13. 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.
  14. The decision-maker 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.
  15. All meetings between the decision-maker and Parties and/or witnesses shall be recorded.
  16. Within ten (10) business days of the last meeting with any Party or witness, the decision-maker must issue a written determination regarding responsibility, applying the preponderance of the evidence standard of evidence. The written determination must include:
    - a. Identification of the allegations potentially constituting sexual harassment as defined in CRR 600.020.
    - b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and meetings held;
    - c. Findings of fact supporting the determination;
    - d. Conclusions regarding the application of the Title IX policies to the facts;
    - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether any remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
    - f. The University's procedures and permissible bases for the Complainant and Respondent to appeal as set forth in Section U.
  17. The written determination will be provided to the Title IX Coordinator, who will provide it to the Parties simultaneously within five (5) business days of receipt of the determination. Notification will be made in writing and 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.

18. The determination becomes final either on the date that the University provides the Parties with the written determination of the result of the appeal, if any appeal is filed, or if any appeal is not filed, the date on which an appeal would no longer be considered timely.
19. The Title IX Coordinator is responsible for effective implementation of any remedies.

## **S. Sanctions and Remedial Actions.**

1. If the Respondent is found responsible for a violation of the University's Title IX Policies, the Hearing Panel, or the decision-maker in the Administrative Resolution Process or Academic Medical Center Process, will determine sanctions and remedial actions. The Title IX Coordinator will apply and enforce the sanctions and remedial actions and may also add other remedial actions as deemed appropriate.
  - a. Factors Considered When Finding Sanctions/Remedial Actions include but are not limited to:
    - (1) The nature, severity of, and circumstances surrounding the violation;
    - (2) The disciplinary history of the Respondent;
    - (3) The need for sanctions/remedial actions to bring an end to the conduct;
    - (4) The need for sanctions/remedial actions to prevent the future recurrence of the conduct; and
    - (5) The need to remedy the effects of the conduct on the Complainant and the University community.
2. **Types of Sanctions.** The following sanctions may be imposed upon any Respondent found to have violated the University's Title IX Policies. Multiple sanctions may be imposed for any single violation. Sanctions include but are not limited to the following:
  - a. **For Respondents who are Student(s) or Student Organization(s):**
    - (1) **Warning.** A notice in writing to the Respondent that there is or has been a violation of institutional regulations, and cautioning that if there are further violations, the existence of the Warning may result in more severe sanctions in the future.
    - (2) **Probation.** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe sanctions if the Respondent is found to be violating any institutional regulation(s) during the probationary period.
    - (3) **Loss of Privileges.** Denial of specified privileges for a designated period of time.
    - (4) **Restitution.** Compensating the University for loss, damage, or injury to University property. This may take the form of appropriate service and/or monetary or material replacement.
    - (5) **Discretionary Sanctions.** Work assignments, service to the University, or other related discretionary assignments, or completion of educational programming.

- (6) **Residence Hall Suspension.** Separation of the Respondent from the residence halls for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.
  - (7) **Residence Hall Expulsion.** Permanent separation of the Respondent from the residence halls.
  - (8) **Campus Suspension.** Respondent is suspended from being allowed on a specific University campus for a definite period of time. Logistical modifications consistent with the sanction imposed, may be granted at the discretion of the Chief Student Affairs Officer (or Designee).
  - (9) **University System Suspension.** Separation of the Respondent from the University System for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.
  - (10) **Withdrawal of Recognition.** Respondent Student Organization loses its Official Approval as a recognized student organization. May be either temporary or permanent.
  - (11) **University System Expulsion.** Permanent and complete separation (i.e., not eligible for online courses either) of the Respondent from the University System.
- b. **For Respondents who are Employee(s):**
- (1) Warning – verbal or written;
  - (2) Performance improvement plan;
  - (3) Required counseling;
  - (4) Required training or education;
  - (5) Loss of annual pay increase;
  - (6) Loss of supervisory responsibility;
  - (7) Recommendation of discipline in a training program, including recommendation of termination, suspension or other corrective or remedial actions;
  - (8) For Non-Regular Faculty, immediate termination of term contract and employment;
  - (9) For Regular, Untenured Faculty, immediate termination of term contract and employment. Notice of not reappointing would not be required;
  - (10) Suspension without pay;
  - (11) Non-renewal of appointment;
  - (12) For Regular, Tenured Faculty, suspension without pay, removal from campus and referral to the Chancellor to initiate dismissal for cause as detailed in Section 310.060 of the Collected Rules and Regulations;
  - (13) For Staff, Demotion;
  - (14) For Staff, Termination.
- c. **Remedial Actions.** The following remedial actions may also be imposed to address the effects of the violation(s) of the University's Title IX Policies on the Complainant. Such remedial actions will vary depending on the circumstances of the policy violation(s), but may include:
- (1) Where the Complainant is a student:
    - (a) Permitting the student to retake courses;

- (b) Providing tuition reimbursement;
- (c) Providing additional academic support;
- (d) Removal of a disciplinary action; and
- (e) Providing educational and/or on-campus housing accommodations.

(2) Where the Complainant is an employee:

- (a) Removal of a disciplinary action;
- (b) Modification of a performance review;
- (c) Adjustment in pay;
- (d) Changes to the employee's reporting relationships; and
- (e) Workplace accommodations.

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 Title IX Policies.

- d. **When Implemented.** Sanctions will be imposed once the written determination regarding responsibility becomes final; the determination regarding responsibility is final either on the date that the Parties are provided with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

**T. Withdrawal While Charges Pending.** Should a Respondent decide to resign employment, or withdraw from the University and not participate in the investigation and/or hearing without signing a Voluntary Permanent Separation and General Release Agreement and without the approval of the Title IX Coordinator, the Formal Complaint may be dismissed, or the Title IX Coordinator may determine that the process will nonetheless proceed in the Respondent's absence to a reasonable resolution and, if the Respondent is found responsible, the Respondent will not be permitted to return to the University unless all sanctions have been satisfied.

#### **U. Appeal.**

1. **Grounds for Appeal.** Both Complainant and Respondent are allowed to appeal the dismissal of a Formal Complaint or any of the allegations therein, or the findings of the Administrative Resolution Process, the Hearing Panel Resolution Process, or the Academic Medical Center process. Appeals are limited to the following:
  - a. A procedural irregularity that affected the outcome of the matter (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. The Title IX Coordinator, 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
  - d. The sanctions fall outside the range typically imposed for this offense, or for the cumulative conduct record of the Respondent.



2. **Requests for Appeal.** Both the Complainant and the Respondent may appeal a dismissal of a Formal Complaint or any allegations therein, or a determination regarding responsibility 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) 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 Panel Appellate Officer within five (5) business days of the delivery of the notice of dismissal or Administrative Resolution Decision, Hearing Panel Decision, or AMC Determination. When any Party requests an appeal, the other Party will be notified and receive a copy of the request for appeal.
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 response to the request for appeal. The 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, and
  - 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 (3) 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 Formal 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 relevant 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 render a written decision on the appeal to all Parties within ten (10) business days from accepting the request for appeal. 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.
  - c. Once an appeal is decided, the outcome is final. Further appeals 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.

**V. 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 and/or suspension, expulsion, termination, referral to Dismissal for Cause process, or withdrawal of recognition from the University. Suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

**W. Dismissal for Cause Referral.** If the recommended sanction for a Regular, Tenured Faculty member is referral to the Chancellor to initiate Dismissal for Cause, the Record of the Case will be forwarded to the appropriate Faculty Committee on Tenure. Because the Dismissal for Cause proceeding is not a re-hearing of the Complaint, the Record of the Case will be included as evidence and the findings will be adopted for proceeding as detailed in Section 310.060: Procedures in Case of Dismissal for Cause in the Collected Rules and Regulations.

**X. Records.** In implementing this policy, records of all Formal Complaints, the Hearing Process or Academic Medical Center Process, and resolutions (including Informal resolution and result therefrom), will be kept by the Title IX Coordinator. For the purpose 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 seven (7) years following final resolution.

In addition, a record of the response to all complaints of sexual harassment, must be maintained for a period of seven (7) years, including records of any actions, including Supportive Measures, taken in response to a report or Formal Complaint of sexual harassment. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education programs or activities. If the University did not provide a Complainant with

Supportive Measures, the University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Each Title IX Coordinator, including the Title IX Coordinator for the academic medical center, shall maintain statistical, de-identified data on the race, gender and age of each Party to a Formal 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.

- Y. Retaliation.** No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, 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 under this policy. 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 Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, 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 Formal 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 Title IX, 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.

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 the 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.

**600.040 Equity Resolution Process for Resolving Complaints of Discrimination, and Harassment, ~~and Sexual Misconduct~~ against a Faculty Member or Student or Student Organization**

Bd. Min. 2-5-15; ~~Amended 2-09-17~~ Revised 7-28-20 with effective date of ~~3-1-17~~ 8-14-20.

**A. General.** The University will promptly and appropriately respond to any ~~complaint~~ report of violation of the University's Anti-Discrimination policies. The procedures described below apply to such ~~complaints~~ reports when the Respondent is a Faculty Member, ~~except as noted herein,~~ (s), a student(s), or a student organization. Further, when the ~~Complaint~~ report involves allegations against the President or a Chancellor, upon consultation between the Office of the General Counsel and the ~~System Title IX Administrator~~ Equity Officer, the investigation may be conducted by an outside investigator. This procedure does not govern complaints alleging conduct that would be defined as sexual harassment under Section 600.020 of the Collected Rules and Regulations.

**A.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 600.040 of the ~~collected~~ Collected Rules and Regulations against Faculty Members, Students, or Student Organizations for conduct occurring in other settings, including off-campus, (1) in order to protect the physical safety of students, employees, and visitors, ~~patients~~ or other members of the University community, or (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 is related to the Faculty Member's fitness or performance in the professional capacity of teacher or researcher or (4) if the conduct occurs when the Faculty Member is serving in the role of a University employee.

If a Complainant simultaneously alleges or the investigation suggests violations of the University's Anti-Discrimination Policies and (1) violation, misinterpretation, or arbitrary application of another written University rule, policy, regulation, or procedure which applies personally to the ~~faculty~~ Faculty member; and/or (2) that there has been an infringement on the academic freedom of the ~~faculty~~ Faculty member, 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 ~~(i.e., the Academic Grievance Procedure shall not apply).~~ In conducting such investigations, the Provost, ~~Title IX Coordinator~~ Equity Officer, and/or the ~~if~~ Investigator may consult with and/or seek guidance from the Human Resources staff or other appropriate administrators as necessary.

If a Complainant alleges or the investigation suggests that a student conduct policy violation occurred in concert with the alleged violation of the University's Anti-Discrimination Policies, the University shall have the authority to investigate and take appropriate action regarding each of the alleged violations of the student conduct policy pursuant to this Equity Resolution Process. In conducting such investigations, the Equity Officer and/or the Investigator may consult with and/or seek guidance from the Student Conduct Coordinator or Residential Life Coordinator as appropriate.

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 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.

**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.

**B-C. Definitions:**

1. **Administrative Resolution.** A voluntary resolution process where a decision-maker makes a finding on each of the alleged policy violations in a Complaint and a finding on sanctions and remedies without a hearing.

2. **Chair of the Hearing Panel ("Panel Chair").** A Chair of the Hearing Panel for a specific Complaint is designated by the Hearing Panelist Pool Chair. The Pool Chair may serve as the Chair of the Hearing Panel for a specific Complaint.

~~1. **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 and the Sex Discrimination, Sexual Harassment and Sexual Misconduct in "Employment/Education Policy located at Section 600.020 of the collected Rules and Regulations.~~

2-3. **Complainant.** "Complainant" refers to the person alleged to have been subjected to discrimination, ~~or harassment or sexual misconduct~~ in violation of the University's Anti-Discrimination Policies. The University may serve as the ~~complainant~~ **Complainant** when the person alleged to have been subjected to discrimination, ~~or harassment or sexual misconduct~~ in violation of the University's Anti-Discrimination Policies chooses not to act as the ~~complainant~~ **Complainant** in the

resolution process or requests that the complaint not be pursued. If the University decides to pursue a ~~claim~~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~~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 ~~complaints~~reports of a violation of the University's Anti-Discrimination policies and if the University decides to pursue a ~~claim~~report of discrimination through the applicable equity resolution process, the University will act as the Complainant.

4. 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.
3. ~~Conflict Resolution. Respondent.~~ Faculty Member or Members alleged to have violated the University's Anti-Discrimination Policies.
5. ~~Faculty Member.~~ A voluntary resolution process using alternative dispute resolution mechanisms such as mediation, facilitated dialogue, or restorative justice.
4. Equity Resolution Appellate Officer. For purposes of Section 600.040, Faculty Member includes Student(s) or Student Organization Respondents, a trained, senior-level administrator appointed by the Chancellor (or Designee) to hear all regular and non-regular academic staff appointments as defined in Section 310.020 and 310.035 of the Collected Rules and Regulations.
- 6.1. ~~Complaint.~~ Any verbal or written communication or notice of an alleged violation of the University's Anti-Discrimination Policies.
6. ~~Advisors.~~ The individuals selected by the Complainant and the Respondent to provide support and guidance throughout appeals stemming from the Equity Resolution Process. Each Party is allowed one Advisor.
7. ~~For Faculty Respondents, Investigators.~~ Investigators are trained individuals appointed by the Equity Officer or Title IX Coordinator (or their designee) to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.
8. 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 reports or 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.
- 9.6. Title IX Coordinator. The Title IX Coordinator is a trained administrator designated by the Chancellor (or Designee) to receive and assist with the investigation and resolution of reports or complaints regarding violation of the University's Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy. All references to "Title IX Coordinator" throughout this policy refer to the Title IX Coordinator or the Title IX Coordinator's designee.

- ~~10. **Equity Resolution Hearing Panelists Pool (“Hearing Panelist Pool”).** A group of at least ten (10) faculty and ten (10) administrators and/or staff selected by the Chancellor (or Designee) to serve as hearing panel members in the Hearing Panel Resolution. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than twenty (20) faculty members proposed by the faculty council/senate.~~
- ~~44.7. **Equity Resolution Hearing Panel (“Hearing Panel”).** A group of three (3) trained Equity Resolution Hearing Panelist Pool members who serve as the Hearing Panel for a specific Complaint. ~~Whenever possible,~~ A good faith attempt will be made for the panel will Hearing Panel to include at least one faculty member and one administrator or staff member.~~
8. **Equity Resolution Hearing Panelists Pool (“Hearing Panelist Pool”).** A group of at least five (5) faculty and five (5) administrators and/or staff selected by the Chancellor (or Designee) to serve as hearing panel members in the Hearing Panel Resolution process. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than ten (10) faculty members proposed by the faculty council/senate. Selection of hearing panel pool members shall be made with an attempt to recognize the diversity of the University community. Hearing Panel members from one University may be asked to serve on a hearing panel involving another University.
9. **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.
10. **Equity Support Person:** An individual selected by a Party to provide support and guidance throughout the Equity Resolution Process. Each Party is allowed one Equity Support Person.
11. **Faculty Member.** For purposes of Section 600.040, Faculty Member includes all regular and non-regular academic staff appointments as defined in Sections 310.020 and 310.035 of the Collected Rules and Regulations.
12. **Hearing Panelist Pool Chair (“Pool Chair”).** The Hearing Panelist Pool Chair is selected by the Chancellor (or Designee). The Pool Chair ~~assigns~~ randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Complaint ~~and designates the Chair of the Hearing Panel for a specific Complaint.~~ The Pool Chair may serve as a panel member ~~or the Chair of the Hearing Panel~~ for a specific Complaint.
- ~~43.1. **Chair of the Hearing Panel (“Panel Chair”).** A Chair of the Hearing Panel for a specific Complaint is designated by the Hearing Panelist Pool Chair. The Pool Chair may serve as the Chair of the Hearing Panel for a specific Complaint.~~
- ~~14. **Summary Resolution.** Resolution of the complaint upon a determination by the Equity Officer or Title IX Coordinator that there is an insufficient basis to proceed with the complaint that the Respondent violated the University’s Anti-Discrimination Policies.~~

- ~~15. **Conflict Resolution.** Resolution using alternative dispute resolution mechanisms such as mediation, facilitated dialogue or restorative justice.~~
- ~~16. **Administrative Resolution.** Resolution of a Complaint by the Provost making the finding on each of the alleged policy violations and the finding on sanctions.~~
- ~~17. **13. Hearing Panel Resolution.** Resolution of a Complaint by an Equity Resolution Hearing Panel making the finding on each of the alleged policy violations and recommending sanctions, and the Provost making the finding on sanctions. In faculty matters, the Hearing Panel will make recommendations as to any sanctions, if applicable, and the Provost will make the finding on sanctions. In matters involving students or student organizations, the Hearing Panel will make a finding on sanctions and remedial actions.~~
- ~~18. **Investigators. Record of the Case in Section 600.040 Process.** The Record of the Case in the Section 600.040 Process includes, when applicable: Letter(s) of notice, exhibits, hearing record (an audio, video, digital or stenographic record of the hearing); the finding on each of the alleged policy violations by either the Hearing Panel, the Provost (or Designee) or Title IX Coordinator; the recommendation of sanctions by the Hearing Panel, the Provost (or Designee) or Title IX Coordinator; the recommendation of sanctions by the Hearing Panel (or Provost's Designee); the finding of sanctions by the Provost; and the decision on the appeal, if applicable.~~
- ~~14. **Investigators are trained individuals appointed by the Equity Officer to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.**~~
- ~~19. **15. Parties.** The Complainant and the Respondent are collectively referred to as the Parties.~~
- ~~16. **Filing a Complaint.** Any student, employee, volunteer, visitor, **Record of the Case.** The Record of the Case in the Section 600.040 Process includes, when applicable: All Notices to the Parties, investigative report, recordings of Party and witness interviews, exhibits used at a hearing, the hearing record (an audio or ~~patient who believes that~~ audiovisual record of the hearing); any determination of dismissal of all or part of a Formal Complaint; the determination on each of the alleged policy violations and sanctions by either the Hearing Panel or Decision-maker; and the decision on the appeal, if any, including the request for appeal, any additional evidence submitted for the appeal, and written arguments of the parties.~~
- ~~17. **Report.** Any verbal or written communication or notice of an alleged violation of the University's Anti-Discrimination Policies.~~
- ~~18. **Respondent.** "Respondent" refers to the Faculty Member ~~has~~(s) or student(s) or student organization alleged to have violated the University's Anti-Discrimination Policies.~~
- ~~19. **Student.** A person having once been admitted to the University who has not completed a course of study and who intends to or does continue a course of study in or through one of the ~~campuses of the~~ Universities of the University System. For the purpose of these rules, student status continues whether or not the University's academic programs are in session.~~



20. Student Organization. A recognized student organization which has received Official Approval in accordance with Section 250.010 of the Collected Rules and Regulations. Three members of the organization may represent the student organization as the Party.

21. Summary Resolution. Resolution of the Complaint upon a 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.

22. University's Anti-Discrimination Policies. The University's Anti-Discrimination Policies include the Equal Employment/Education Opportunity and Nondiscrimination Policy ~~should report the complaint to the Equity Officer located at Section 600.010 of the Collected Rules and Regulations (CRR).~~

G-D. Making a Report. Any student, employee, volunteer, visitor, or patient who believes that a Faculty Member has violated the Sex Discrimination, Sexual Harassment, and Sexual Misconduct in Employment/Education Policy ~~should 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 the complaint to the Title IX Coordinator. Complainants 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. Further, reports may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Equity Officer.~~ Individuals may also contact ~~campus~~University police if the alleged offense may also constitute a crime. In order to foster reporting and participation, the University may provide amnesty to ~~Complainants~~Parties and witnesses accused of minor student conduct violations ancillary to the incident.

E. Preliminary Investigation.Contact and Inquiry. Upon receiving ~~the complaint~~a report, the Equity Officer ~~of Title IX Coordinator shall conduct a preliminary~~ 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.~~The purpose of the ~~sufficient to identify the Complainant to the extent possible.~~

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

If the complaintreport describes a possible violation, the Equity Officer ~~of Title IX Coordinator~~ will refer the matter to the appropriate procedural process and provide appropriate interim remedies, supportive measures. If the Complaintreport does not describe a possible violation, the matter will be referred to the appropriate non-equity Equity process. Under those circumstances, the Equity Officer ~~of Title IX Coordinator~~ 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 investigationinquiry shall be conducted promptly (typically within 7-10 business days) of receiving the report.

#### **F. Filing a Complaint**~~, At.~~

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 out 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.

#### **G. 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 preliminary investigation, the Equity Officer or Title IX Coordinator will provide the Complainant with written information regarding 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 grievance 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 ~~and emailed~~.

D.H. Supportive Measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate ~~procedural process and interim remedies, if any,~~ 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:

E. Interim Remedies. During the Equity Resolution Process and prior to a finding whether the alleged violation has occurred, the Equity Officer of Title IX Coordinator, in consultation with the Provost (or Designee) when directly impacting a Faculty Member, may provide interim remedies including, but not limited to, one or more of the following:

1. Referral and facilitating contact for the Complainant to on- or off-campus Respondent for counseling, medical services and/or mental health or other support services.
2. Implementing Mutual restrictions on contact limitations on between the Respondent or on all Parties.
3. Referral of the Complainant to victim advocacy and support services either on and/or off-campus.
3. Providing campus escort services to the Parties.
4. Increased security and monitoring of certain areas of the campus.

4-5. Adjusting the extracurricular activities, work schedules, work assignments, supervisory responsibilities, or work arrangements of the Complainant and/or the Respondent, as appropriate.

5-6. If the Complainant either Party is a student:

- a. Referral of the Complainant that Party to academic support services and any other services that may be beneficial to the Complainant Party.
- b. Adjusting the courses, assignments, and/or exam schedules of the Complainant and/or the Respondent Party.
- c. Altering the on-campus housing assignments, dining arrangements, or other campus services for either the Complainant and/or the Respondent the Party.

6-7. Providing limited transportation accommodations for the Complainant Parties.

~~7-8.~~ Informing the ~~Complainant~~Parties of the right to notify law enforcement authorities of the alleged incident and offering to help facilitate such a report.

~~8. Implementing leave from work with pay for the Complainant and/or Respondent.~~

~~9. Implementing suspension from campus with pay for the Respondent.~~Implementing an Emergency Removal of a Respondent from the University's education program or activity on an emergency basis, if the Equity Officer, after conducting an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of discrimination or harassment, justifies removal.

a. In all cases in which an Emergency Removal is imposed, the Respondent will immediately be given notice and an opportunity to challenge the decision of the Equity Officer either prior to such Removal being imposed, or as soon thereafter as reasonably possible but no later than five (5) business days, to show cause why the Removal should not be implemented. Any such challenge shall be made in writing and directed to the Equity Officer who will forward such challenge to the Emergency Removal Appeal Individual/Committee, which will make a final decision on removal within three (3) business days.

b. Violation of an Emergency Removal under this policy may be grounds for discipline.

10. Suspending, on an interim basis, a Respondent Student Organization's operations, University recognition, access to and use of the University campus/facilities/events and/or all other University activities or privileges for which the Respondent Student Organization might otherwise be eligible, pending the completion of the Equity Process when the Equity Officer finds and believes from available information that the presence of the student organization on campus would seriously disrupt the University or constitute a danger to the health, safety, or welfare of members of the University community. The appropriate procedure to determine the future status of the student organization will be initiated within seven (7) business days.

11. Implementing an administrative leave for an employee in accordance with University Human Resources Policies. Administrative leave for an employee is not an Emergency Removal under this policy.

~~F-1.~~ **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 but not limited to the Investigator, ~~the Equity Officer,~~ Provost (or Designee), the ~~Equity Officer, the Title IX Coordinator, the Hearing Panel,~~ and/or the ~~Chancellor (or Designee),~~ Equity Resolution Appellate Officer, and all documentary evidence must be genuine and accurate. False statements, or fraudulent evidence or refusal to cooperate with the Investigator, ~~the Equity Officer,~~ Provost, ~~the Title IX Coordinator, the (or Designee),~~ Hearing Panel, and/or the ~~Chancellor (or Designee)~~ Equity Resolution Appellate Officer by an employee may be the basis for personnel action ~~or~~ pursuant to

CRR 370.010 or HR 601, or other applicable University policies, or if by a student may be the basis for ~~student conduct~~disciplinary action pursuant to ~~Section 200.010.B.14. or other~~ the provisions of ~~Section~~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. ~~Nothing in this provision is intended to require a Complainant to participate in the process~~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 attempting to or actually intimidating or harassing any potential witness. Failure to adhere to these requirements may lead to disciplinary action, up to and including expulsion or termination.

#### G-J. **Rights of the ComplainantParties 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 ~~campus~~University support resources (such as counseling and mental health services and University health services).
4. To request a no contact directive between the Parties.
- 4-5. To have an AdvisorEquity Support Person of the Complainant'sParty's choice accompany the ComplainantParty to all interviews, meetings, and proceedings throughout the Equity Resolution Process.
6. To refuse to have an allegation resolved through Conflict ~~Resolution~~ or Administrative Resolution Processes.
7. 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.
- 7-8. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.
- 8-9. To have Complaints heard in substantial accordance with these procedures.
- 9-6. ~~When the Complainant is not the reporting Party, the Complainant has full rights to participate in any Equity Resolution Process.~~
10. To receive written notice of any delay of the grievance process or limited extension of time frames.
- 10-11. ~~To be informed~~in writing of the finding, rationale, sanctions and remedial actions.
- 11-12. ~~To report the matter to law enforcement (if applicable) and to have assistance in making that report.~~

~~42-13.~~ To have an opportunity to appeal a summary determination ending the findings process, and sanctions appeal the determination of a hearing panel or decision-maker.

14. When the Complainant is not the reporting Party, the Complainant has full rights to participate in any Equity Resolution Process.

15. Additional Rights for Students as a Party:

a. To request reasonable housing, living and other accommodations and remedies consistent with Section 600.040.H.

b. To receive amnesty for minor student misconduct that is ancillary to the incident, at the discretion of the Equity Officer.

~~43-16.~~ Additional Rights for Hearing Panel Resolution:

a. To receive notice of a hearing.

b. To have the names of witnesses that may participate in the hearing and copies of all pertinent documentary evidence gathered in the course of the investigation and any investigative report at least five (5) business days prior to the hearing. In the event the Hearing Panel becomes aware of additional witnesses or pertinent documentary evidence less than five (5) business days prior to the scheduled hearing date (or continued hearing date), the Complainant shall be provided reasonable notice of such witnesses and reasonable time to review pertinent documentary evidence prior to their introduction.

a. 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.

b. To request alternative attendance or questioning mechanisms for the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.).

c. To have present an Advisor during the hearing and to consult with such Advisor during the hearing.

~~e.a. To testify at the hearing or refuse to testify at the hearing.~~

d. To present witnesses and documents deemed relevant by the Chair.

e. To question witnesses present and testifying at the hearing. See Section 600.040.N. below for limitations on directly questioning the Respondent.

~~H. Rights of the Respondent in the Equity Resolution Process:~~

~~1. To be treated with respect by University officials.~~

~~2. To have access to campus support resources (such as counseling and mental health services and University health services), unless removed from campus pending the completion of the process.~~

~~3. To have an Advisor of the Respondent's choice accompany the Respondent to all meetings and proceedings throughout the Equity Resolution Process.~~

~~4. To refuse to have an allegation resolved through Conflict Resolution or Administrative Resolution Processes.~~

~~5. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.~~

~~6. To receive notice of the policies alleged to have been violated.~~

~~7. To have Complaints heard in substantial accordance with these procedures.~~

~~8. To be informed in writing of the finding, rationale and sanctions.~~

~~9. To have an opportunity to appeal the findings and sanctions.~~

~~10. Additional Rights For Hearing Panel Resolution:~~

- ~~a. To receive notice of the hearing.~~
- ~~b. To have the names of witnesses that may participate in the hearing and copies of all pertinent documentary evidence and any investigative report at least five (5) business days prior to the hearing. In the event the Hearing Panel becomes aware of additional witnesses or pertinent documentary evidence less than five (5) business days prior to the scheduled hearing date (or continued hearing date), the Complainant shall be provided reasonable notice of such witnesses and reasonable time to review pertinent documentary evidence prior to their introduction.~~
- ~~d.c. To be present at the hearing, which right may be waived by either written notification to the Hearing Panel Chair/Panel Chair Officer or by failure to appear.~~
- ~~c. To request alternative attendance or questioning mechanisms for the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.).~~
- ~~e.d. To have present an Advisor/Equity Support Person during the hearing and to consult with such Advisor/Equity Support Person during the hearing.~~
- ~~e. 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.~~
- ~~f. To testify at the hearing or refuse to testify at the hearing.~~
- ~~d. To testify at the hearing or refuse to testify at the hearing.~~
- ~~e. To have an equal opportunity to present witnesses and documents deemed relevant by the chair.~~
- ~~f.g. To Hearing Panel Chair, and to question witnesses present and testifying at the hearing. See Section 600.040.N. below for limitations on directly questioning the Complainant.~~
- ~~h. To request that the hearing be held virtually, with technology enabling participants simultaneously to see and hear each other.~~

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

~~If the Complainant is requested by a student, the student Complainant may request that Student Party, the Equity Officer or Title IX Coordinator may assign a trained Advisor/an Equity Support Person to provide support throughout/explain the Equity Resolution Process/proceedings with a Student Party.~~ University ~~trained Advisors/Equity Support Person(s)~~ are administrators, faculty, or staff at the University trained on the Equity Resolution Process. The ~~Complainant/Parties~~ may not require that the assigned ~~Advisor/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.

The ~~Advisor~~Equity Support Person may not make a presentation or represent the Complainant or ~~the~~ Respondent during the hearing. At the hearing, the Parties are expected to ask and respond to questions on their own behalf, without representation by ~~their Advisor~~the Equity Support Person. The ~~Advisor~~Equity Support Person may consult with the ~~advisee~~Party quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the ~~advisee~~Party to the hearing panelists. ~~Advisors who do not~~ If the Equity Support Person fails to follow these guidelines, they will be warned or dismissed from the hearing at the discretion of the Hearing Panel Chair.

L. Investigation. ~~If, following~~Upon the ~~preliminary investigation, a Complainant or the University wants to pursue~~initiation of a formal investigation, ~~then the Equity Officer or Title IX Coordinator (depending on the nature of the Complaint) will promptly appoint a trained Investigator or a team of trained investigators~~Investigators to investigate. ~~Within ten (10) business days after commencement of 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 formal investigation, the Investigator(s) will provide the Parties professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with written notice identifying the nature of the allegation(s) against the Respondent and stating that an investigation has commenced, either: (1) in person, (2) by email onlythe provision of treatment to the Party's University issued email account if the Party has consented in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official, unless the University records and emailed to the obtains that Party's University issued email account. If there is no local address on file, mail will be sent to the Party's permanent address. Notice is presumptively deemed delivered, when: 1) provided in person 2) emailed to the individual (when prior-voluntary, written consent —whether electronically or in writing— has been given to receipt of all notifications by email) or 3) when mailed and emailed.

The Parties are allowed to have an Advisor of their choice present with them for all to do so for use in the Equity Resolution process.

The ~~Process~~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 a hearing, interview, or other meeting, shall receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings and proceedings in which they, with sufficient time for the Party to prepare to participate. All investigations will

The Parties may be thorough, reliable and impartial. accompanied to any related meeting or interview 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 ~~include the~~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 ~~or Title IX Coordinator (depending on the nature of the Complaint).~~Complainant. This report may contain the Investigator's observations regarding the credibility of the ~~complainant~~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 ~~misconduct~~discrimination or harassment should be completed expeditiously, normally within thirty (30) business days of the ~~Equity Officer or Title IX Coordinator's decision to accept the complaint for formal investigation.~~filing of the Complaint. Investigation of a Complaint may take longer based on the nature and circumstances of the ~~complaint~~Complaint.

- M. **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.

**N. Summary Resolution.** During or upon ~~the~~ completion of investigation, the Equity Officer ~~or Title IX Coordinator~~ will review the investigation, which may include meeting with the Investigator(s). The investigative report is not provided to the Parties during ~~the~~ Summary Resolution, but is provided to the Parties at either the Administrative Resolution or Hearing Panel Resolution. Based on that review, the Equity Officer ~~or Title IX Coordinator~~ 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 ~~or Title IX Coordinator~~ determines that there is a sufficient basis to proceed with the Complaint, then the Equity Officer ~~or Title IX Coordinator~~ will direct the process to continue. The Complaint will then be resolved through ~~one of three processes; either~~ Conflict Resolution, Administrative Resolution, or Hearing Panel Resolution. ~~There is no right to request reconsideration or appeal the summary determination to continue the process.~~

If the Equity Officer ~~or Title IX Coordinator~~ 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 ~~or Title IX Coordinator~~ may counsel and suggest monitoring or training opportunities to correct for inappropriate behavior that does not rise to the level of a violation.

~~The Complainant may request that the Chancellor (or Designee) reconsider the~~ Upon a summary determination ending the process ~~by filing a written request with the Chancellor within five (5) business days of~~, the University will promptly send written notice of the summary determination. ~~If the Chancellor (or Designee) decides there is a sufficient basis to proceed with the Complaint, the Chancellor (or Designee) will reverse the determination ending the process and direct the process to continue. The Complaint will then be resolved through one of three processes: Conflict Resolution, Administrative Resolution, or Hearing Panel Resolution. This determination to continue the process lies in the sole discretion of the Chancellor (or Designee) and such determination is final. Further reason(s) therefor simultaneously to the Parties. The Parties may appeal~~ of such determination is not permitted.

~~If the Chancellor (or Designee) agrees with the summary determination ending the process by the in accordance with Section T. If the summary determination ending the process is reversed, the Equity Resolution Appellate Officer or Title IX Coordinator and that there is not a sufficient basis will direct the process to continue pursuant to this policy.~~

~~**Conflict Resolution.** The Parties may choose to proceed with the Complaint, then the process will end and the Complainant and the Respondent will be sent written notification of the determination. This determination to end the process lies in the sole discretion of the Chancellor (or Designee) and such determination is final. Further appeal of such determination is not permitted.~~

~~J. **Conflict Resolution.** Either Party may request engage in Conflict Resolution at any time during the Equity Resolution Process, including during the preliminary investigation. Upon receiving such a request, or of their own accord, the Equity Officer or Title IX Coordinator 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 the. 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. Conflict Resolution is often used for less serious, yet inappropriate behaviors and is encouraged as an alternative a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right. The Parties are not required to the Administrative and Hearing Panel Resolution processes to resolve conflicts. Mediation is never utilized in cases involving allegations of nonconsensual sexual intercourse or nonconsensual sexual contact. Waive their right to an investigation of a Complaint or a right to a hearing. It is not necessary to pursue Conflict Resolution prior to pursuing either the Administrative or Hearing Panel Resolution Process and either party Party can stop the Conflict Resolution process Process at any time and request either the Administrative Resolution or Hearing Panel process.~~

~~O. In a Process or Hearing Panel 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 meeting 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, University assigned facilitator will foster a dialogue with the Parties to an effective resolution, if possible. The Complainant's and the Respondent's Advisor 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 Title IX Coordinator sanctions. The Equity~~

Officer will keep records of any ~~resolution~~ Conflict Resolution that is reached, ~~and failure to abide by the agreed-upon resolution may result in sanctions.~~

In the event the Parties are unable to reach a mutually agreeable resolution, the ~~investigation~~ matter will be referred back to the Administrative ~~Resolution~~ or Hearing Panel ~~Process~~ ~~as appropriate~~ Resolution process. The content of the Parties' ~~discussions~~ discussion during the ~~conflict~~ Conflict Resolution Process will be kept confidential in the event the matter proceeds to the Administrative ~~Resolution~~ or Hearing Panel ~~Processes~~ Resolution processes. 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.

Among the resolutions which may be reached at this stage (or at any point prior to a finding through Administrative or Hearing Panel Resolution), the Respondent may voluntarily request to permanently separate from the University of Missouri System. If the Equity Officer accepts the Respondent's proposal, the Respondent must sign a Voluntary Permanent Separation and General Release agreement to effectuate their separation and terminate the Equity Resolution process.

**O.P. Procedural Details for Administrative Resolution and Hearing Panel Resolution.** For both the Administrative Resolution and Hearing Panel Resolution, which are described in more detail below, the following will apply:

1. 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.

2. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Equity Resolution process.

2.3. ~~The decision-maker (i.e., the Investigator, Provost or Designee and/or Hearing Panel Chair)~~ has 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:

~~a. Questioning or evidence about the Complainant's prior sexual conduct is not permitted, though the decision maker may grant a limited exception in regards to the sexual history between the Parties, if deemed relevant.~~

a. 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.

- b. 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 ~~the Complainant or the Respondent's~~ Party's character is of limited utility and shall not be admitted unless deemed relevant by the decision-maker.
  - c. Incidents or behaviors of ~~the Respondent 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 ~~the Respondent a~~ Party that shows a pattern may be considered only if deemed relevant by the decision-maker.
  - d. 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.
  - e. The decision-maker 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.
- ~~3-4.~~ The Respondent may not directly question the Complainant and the Complainant may not directly question the Respondent. However, if both Complainant and Respondent 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.
- ~~4-5.~~ In the Administrative Resolution Process, the Respondent and the Complainant may provide a list of questions for the ~~Provost~~ 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 to such questions will be shared with the requesting Party.
- ~~5. The Administrative Resolution process may be used when both Parties elect to resolve the Complaint using the Administrative Resolution Process.~~
- 6. At any time prior to the deadline in the Notice of Administrative Resolution, the Complainant and/or the ~~respondent~~ Respondent may request that the Complaint shift from the Administrative Resolution process to the Hearing Panel Resolution process. Upon receipt of such timely request from either Party, the Complaint will shift to the Hearing Panel Resolution Process.
  - 7. The Resolution Processes ~~will~~ may proceed regardless of whether the Respondent chooses to participate in the investigation, the finding or the hearing.
  - 8. The Administrative Resolution or Hearing Panel Resolution Process will normally be completed within ~~sixty (60) business~~ a reasonably prompt time period, not to exceed one hundred twenty (120) days of, following the Equity ~~Officer or Title IX Coordinator's~~

~~decision to accept the~~ Officer's receipt of a Complaint ~~for formal investigation. Deviations from this timeframe.~~ Unusual delays will be promptly communicated to both Parties.

9. For good cause, the ~~Provost in the Administrative Resolution Process and the Chair of the Hearing Panel Resolution Process~~ decision-maker may, in their discretion, grant reasonable extensions to the time frames and limits provided.

#### Q. Administrative Resolution:

##### ~~Q.~~ Administrative Resolution:

1. ~~Administrative Resolution by the Provost (or Designee)~~ can be pursued for any behavior that falls within the University's Anti-Discrimination Policies. Administrative Resolution may be used when both Parties elect to resolve the Complaint using the Administrative Resolution Process.
2. The Administrative Resolution process consists of:
  - a. A prompt, thorough and impartial investigation;
  - b. A separate meeting with each Party and their Equity Support Person, if any, and the decision-maker, if requested;
  - ~~b.c.~~ A written finding by the Provost (or Designee) decision-maker on each of the alleged policy violations, and:
    - (1) For Faculty Respondents by the Provost (or Designee)
    - (2) For Student/Student Organization Respondents by the Equity Officer
  - ~~e.d.~~ A written finding by the Provost on sanctions for findings of responsibility:
    - (1) For Faculty Respondents by the Provost
    - (2) For Student/Student Organization Respondents by the Equity Officer
3. At least ~~fourteen (14)~~ fifteen (15) business days prior to meeting with the ~~Provost (or Designee) decision-maker~~, or if no meeting is requested, at least ~~fourteen (14)~~ fifteen (15) business days prior to the ~~Provost (or Designee) decision-maker~~ rendering a finding(s) ~~(or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the Parties), the Provost (or Designee)), the decision-maker~~ will send a letter (Notice of Administrative Resolution) to the Parties ~~with~~ containing the following information:
  - a. A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
  - b. The name of the decision-maker.
  - ~~b.c.~~ Reference to or attachment of the applicable procedures.
  - ~~e.d.~~ A copy of the final investigative report.
  - ~~d.e.~~ The option and deadline of ten (10) business days from the date of the notice to request a meeting with the Provost (or Designee) decision-maker.
  - ~~e.f.~~ An indication that the Parties may have the assistance of an Advisor Equity Support Person of their choosing at the meeting with the decision-maker, though the Advisor's Equity Support Person's attendance at the meeting is the responsibility of the respective Parties.
  - ~~f.g.~~ The option and the deadline of ten (10) business days from the date of the Notice to request in writing that the matter be referred to the Hearing Panel

Resolution process. If neither Party requests the Hearing Panel Resolution Process within the required time period, the matter will be decided through the ~~administrative~~Administrative Resolution Process and the right to the Hearing Panel Resolution Process is waived.

~~4.~~ 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.

~~4-5.~~ Within ten (10) business days from the date of the Notice of Administrative Resolution, the Parties have the right to have the matter referred to the Hearing Panel Resolution Process. If neither Party requests the Hearing Panel Resolution Process within the required time period, the matter will be decided through the Administrative Resolution Process and the right to the Hearing Panel Resolution Process is waived.

~~The Investigator(s) will provide an investigative report to the Provost (or Designee) and Parties. This report may include the Investigator's observations regarding the credibility of the Complainant, the Respondent, and any witnesses interviewed. The decision-maker~~

~~5-6.~~ The Provost (or Designee) can, but is not required to, meet with and question the Investigator and any identified witnesses. The Provost (or Designee) decision-maker may request that the Investigator conduct additional interviews and/or gather additional information. The Provost (or Designee) decision-maker 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 Provost (or Designee) decision-maker will render a finding that the individual is in violation of University policy for the admitted conduct. For any disputed violations, the Provost (or Designee) decision-maker will render a finding utilizing the preponderance of the evidence standard. ~~The~~For Faculty Respondents, the Provost's Designee may recommend appropriate sanctions and remedial actions but only the Provost will find sanctions or remedial actions. The findings and sanctions are subject to appeal.

~~6-7.~~ The Provost (or Designee) decision-maker will inform the Respondent and the Complainant ~~simultaneously~~ simultaneously of the finding ~~on~~of each of the alleged policy violations and the finding ~~on~~of sanctions, if applicable, in writing ~~within five (5) business days of the findings, without significant time delay between notifications. The Notification will be made in writing and will be delivered either: (1) in person, (2) by email only to the Party's University-issued email account if, or by the method of notification previously designated in writing by the Party has consented in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official~~



~~University records and emailed to the Party's University issued email account. If there is no local address on file, mail will be sent to the Party's permanent address.~~ Notice is presumptively deemed delivered, when: 1) provided in person; 2) emailed to the individual ~~(to their University-issued email account or 3) when prior consent—whether electronically or in writing—has been given to receipt of all notifications by email) or 3) when mailed and emailed~~ sent via the alternate method of notification specified by the Party.

8. Either Party may appeal a decision under Administrative Resolution in accordance with Section T of this policy.

## R. Hearing Panel Resolution

1. **Equity Resolution Hearing Panelist Pool.** ~~The~~Each University will create and annually train a pool of not less than ~~ten (10)~~five (5) faculty and ~~ten (10)~~five (5) administrators and/or staff to serve as hearing panel members in the Hearing Panel Resolution Process. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than ~~twenty (20)~~ten (10) faculty members proposed by the faculty council/senate. Panelists are selected by the Chancellor (or Designee) and serve a renewable one-year term. ~~Panelist selections should be made with attention to representation of groups protected by the University's Anti-Discrimination Policies.~~ Selection of hearing panel pool members shall be made with an attempt to recognize the diversity of the University community. Hearing Panel members from one University may be asked to serve on a hearing panel involving another University. ~~The Chancellor (or Designee) will select a Hearing Panelist Pool Chair ("Pool Chair"). The Pool chair assigns and coordinates the hearing panel members to serve on the Hearing Panel for a specific Complaint and designates the Chair of the Hearing Panel for a specific Complaint. The Pool Chair may serve as a panel member or the chair of the Hearing Panel for a specific Complaint.~~

The Chancellor (or Designee) will select a Hearing Panelist Pool Chair ("Pool Chair"). ~~The Pool Chair randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Formal Complaint. The Pool Chair may serve as a panel member for a specific Formal Complaint.~~

Administrators, faculty, and staff will be removed from the Hearing Panelist Pool if they fail to satisfy the annual training requirements, as determined by the Equity Officer ~~or Title IX Coordinator.~~ Under such circumstances, the Equity Officer ~~or Title IX Coordinator~~ will notify the ~~chancellor~~Chancellor (or Designee), who will inform the administrator, faculty, or staff member of the discontinuation of their term.

2. **Equity Resolution Hearing Panel ("Hearing Panel").** When a Complaint is not resolved through the Administrative Resolution Process, the Hearing Panelist Pool Chair will ~~assign~~randomly select three (3) members from the Hearing Panelist Pool to serve on the specific Hearing Panel ~~and.~~ A good faith attempt will also designate the Chair of ~~be made for~~ the Hearing Panel. ~~The Hearing Panel will~~ to include at least

one faculty member and one administrator or staff member. Up to two (2) alternates may be designated to sit in throughout the process as needed. ~~The Chair of the Hearing Panel helps ensure that the process adheres materially to the procedural elements of the Hearing Panel Resolution Process. The institution~~ The University reserves the right to have its attorney ~~or attorneys~~ present during the hearing and during deliberations to advise the Hearing Panel.

### 3. Notice of Hearing.

- a. At least ~~fourteen (14)~~ twenty (20) business days prior to the hearing, ~~or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the Parties, the Provost (or Designee)~~ Equity Officer will send a letter (Notice of Hearing) to the Parties with the following information:
- (1) A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
  - (2) ~~Reference to~~ A description of or attachment of the applicable procedures.
  - (3) ~~An indication~~ A statement that the Parties may have the assistance of an ~~Advisor~~ Equity Support Person of their choosing, at the hearing; at the hearing, though the ~~Advisor's~~ Equity Support Person's attendance at the hearing is the responsibility of the respective Parties.
  - (4) The time, date and location of the hearing.
  - (5) A list of the names of each of the Hearing Panel members and alternates, and information on how to raise an objection to any member of the Hearing Panel and the timeline in which to raise any objections.
  - ~~(6) A copy of the preliminary/final investigative report or summary.~~
  - ~~(6) This Notice of Hearing letter will be made in writing and will be delivered either: (1) in person, (2) by email only~~ exhibits.
  - ~~(7) Notification to the Party's University issued email account if the Party has consented in writing to receipt of Parties that all notifications by email; or (3) mailed to of the evidence gathered in the mailing address~~ course of the respective party as indicated in investigation that is directly related to the official University records and emailed allegations is available to the Party's University issued email account. If there is no local address on file, mail will be Parties and instructions regarding how to request access to that information.
  - ~~(8) Notice that the Parties may request a virtual hearing and/or any necessary accommodations.~~
- b. ~~The Notice of Hearing letter will be sent to the Party's permanent address.~~ 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 prior consent — whether electronically or in writing — has been given to receipt of all notifications by email) or 3) when mailed and emailed~~ sent via the alternate method of notification specified by the Party.

#### 4. Pre-Hearing Witness List and Documentary Evidence.

- a. At least ~~seven (7)~~fifteen (15) business days prior to the hearing, the Complainant and Respondent will provide to the Investigator a list of the names of the proposed witnesses and copies of all proposed documentary evidence. ~~At least five (5) business days prior to the hearing, the Investigator will have the names of proposed witnesses, copies of all pertinent documentary evidence and a copy of the investigative report available for the Complainant and the Respondent, and a copy of the same will be sent to the Hearing Panel Chair that a Party intends to call or use at the hearing.~~
- b. At least ten (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.
- ~~b-c.~~ No employee or student, directly or through others, should take any action which may interfere with the investigation or hearing procedures. Employees and students are prohibited from ~~attempting to~~attempted or actually intimidatingactual intimidation or harassingharassment of any potential witness. Failure to adhere to these requirements may lead to disciplinary action, up to and including expulsion or termination.
- d. At least five (5) business days prior to the hearing date, the final investigative report and all exhibits will be provided to the Hearing Panel members.

#### 5. Objection to or Recusal of Hearing Panel Member.

- ~~a.~~ In addition, the Parties will be given a list of names of each of the Hearing Panel members at least fourteen (14) business days in advance of the hearing. Hearing Panel members shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If a Hearing Panel member feels that they have a conflict of interest or bias, or cannot make an objective determination, they must recuse themselves from the proceedings in advance of the hearing.
- ~~a-b.~~ The Parties will have been given the names of the Hearing Panel members in the Notice of Hearing. Should any Complainant or Respondent object to any panelist, they must raise all objections, in writing, to the ~~Hearing Panelist Chair~~Equity Officer at least ~~seven (7)~~fifteen (15) business days prior to the hearing.
- c. Upon receipt, the investigator will forward to the ~~Hearing Panelist Pool Chair~~Equity Officer any written objection by the Complainant or the Respondent to any hearing panel member. Hearing Panel members will only be unseated and replaced if the ~~Hearing Panelist Pool Chair~~Equity Officer concludes that good cause exists for the removal of a panel member. Good cause may include, but is not limited to, bias that would preclude an impartial hearing or circumstances in which the ~~panel~~Hearing Panel member's involvement could impact the Party's work or learning environment due to current or potential interactions with the ~~panel~~Hearing Panel member (e.g., a panel member being in the same department as either Party). ~~Additionally, any panel. If the Equity Officer determines that a Hearing Panel~~

~~member or should be unseated and replaced, then the Equity Officer will ask the Hearing Panel Pool Chair of the Hearing Panel who feels they cannot make an objective determination must recuse themselves to randomly select another member from the proceedings in advance of the hearing pool to serve on the Hearing Panel. The Equity Officer will provide a written response to all Parties addressing any objections to the Hearing Panel members.~~

**6. Request for Alternative Attendance or Questioning Mechanisms.** The Chair of the Hearing Panel, in consultation with the Parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the Investigator(s) in the investigative report or during the hearing. All Parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the Parties. ~~if alternative attendance or questioning mechanisms are desired (e.g., screens, Skype, questions directed through~~

~~All hearings will be live. However, at the Chair, etc.), the Parties should request them from of either Party, or by the University's designation, the Chair at least two (2) business days prior to the live hearing. may occur with the Parties located in separate rooms with technology enabling the Hearing Panel and their legal advisor, if any, the Parties and their Equity Support Person, and the Investigator, to simultaneously see and hear the Party or the witness answering questions. Should any hearing take place in this manner, the Equity Officer (or Designee) shall be in charge of the technology during the hearing. The University will make reasonable accommodations for both the Parties in keeping with the principles of equity and fairness.~~

**6-7. Requests to Reschedule the Hearing Date.** For good cause, the Chair of the Hearing Panel may grant requests to reschedule the hearing date.

**7-8. Conduct of Hearing.** The Chair of the Hearing Panel ("Chair" in this subsection) shall preside at the hearing, call the hearing to order, call the roll of the Hearing Panel and alternates in attendance, ascertain the presence or absence of the Investigator, the Complainant and the Respondent, confirm receipt of ~~notice~~ the Notice of hearing Allegations and Notice of Hearing by the Parties, report any extensions requested or granted, and establish the presence of any ~~Advisors~~ Equity Support Persons. Formal rules of evidence shall not apply.

**a. Order of Evidence.** The order of evidence shall be the following:

(1) **Investigator's Report and Testimony.** The Investigator(s) 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(s) 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(s) will remain present during the entire hearing process.

- (2) **Complainant's Evidence.** The Complainant may give testimony and be subject to questioning by the Investigator, the Respondent (through the [Hearing Panel Chair](#) as discussed in Section 600.040.N-6P above) and the Hearing Panel. The Complainant may also call and question witnesses who may also then be questioned by the Respondent, the Investigator and the Hearing Panel. The Complainant may also submit documentary evidence.
- (3) **Respondent's Evidence.** The Respondent may give testimony and be subject to questioning by the Investigator, the Complainant (through the Chair as discussed in Section 600.040.NP above) and the Hearing Panel. The Respondent may also call and question witnesses who may also then be questioned by the Complainant, the Investigator and the Hearing Panel. The Respondent may also submit documentary evidence.
- (4) **Record of Hearing.** The Chair of the Hearing Panel shall arrange for recording of the hearing, whether by audio, video, digital or stenographic means. The recording of the hearing will become part of the Record of the Case in the Section 600.040 Process.

#### **8-9. Process Rules and Rights of the Hearing Panel.**

- a. The relevancy and admissibility of any evidence offered at the hearing shall be determined by the Chair, whose ruling shall be final, unless the Chair shall present the question to the Hearing Panel at the request of a member of the Hearing Panel, in which event, the ruling of the Hearing Panel by majority vote shall be final.
- b. To question witnesses or evidence introduced by the Investigator, the Complainant or the Respondent at any time during the hearing process.
- c. To call additional witnesses and submit documentary evidence.
- d. To exclude a witness proposed by the Investigator, the Complainant or the Respondent if it is determined their testimony would be redundant or not relevant.
- e. To dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the Chair of the Hearing Panel (~~“Chair” in this subsection~~).
- ~~b. To arrange for alternative attendance or questioning mechanisms for either Party or any witness at the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.).~~
- f. To have present a legal advisor to the Hearing Panel, who shall be designated by the Office of the General Counsel.

- g. To have the names of witnesses that may be called by the Investigator, the Complainant and the Respondent, all ~~pertinent~~relevant documentary evidence that may be introduced by those Parties, and a complete copy of the investigative report at least five (5) business days prior to the hearing.
- h. Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the Chair, whose ruling shall be final unless the Chair shall present the question to the Hearing Panel at the request of a member of the Hearing Panel, in which event, the ruling of the Hearing Panel by majority vote shall be final.

**10. Findings of the Hearing Panel.**

- a. The Hearing Panel will deliberate with no others present, except any legal advisor to the Hearing Panel, to find whether the Respondent is responsible or not responsible for the policy violation(s) in question. The ~~panel~~Hearing 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 recommend appropriate sanctions.~~
- b. If a Student or Student Organization Respondent is found responsible by a majority of the Hearing Panel, the Hearing Panel will determine the appropriate sanctions which will be imposed by the Equity Officer. If a Faculty Respondent is found responsible by a majority of the Hearing Panel, the Hearing Panel will recommend appropriate sanctions to the Provost, who will determine and impose the appropriate sanctions.
- c. The Hearing Panel Chair will prepare a written ~~panel report~~determination regarding responsibility ("Hearing Panel Decision") and deliver it to the Provost (or Designee) (for Faculty Respondents) or the Equity Officer (for Student Respondents) detailing the ~~finding, how each member voted, the information cited by the panel~~following:
 
  - (1) Identification of the allegations potentially constituting discrimination or harassment, as defined in ~~support of its finding~~CRR 600.010, and the determination of the Hearing Panel.
  - (2) A description of the procedural steps taken from the receipt of the Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence and hearings held;
  - (3) Findings of fact supporting the determination and any information the Hearing Panel excluded from its consideration and why.~~If the Respondent is found responsible, the report should conclude with:~~
  - (4) Conclusions regarding the application of the University's Anti-Discrimination policies to the facts;
  - (5) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;

- (6) For Student Respondents, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education programs or activities will be provided by the University to the Complainant;
- (7) For Faculty Respondents, any disciplinary sanctions the Hearing Panel recommends to be imposed on the Respondent and any recommended sanctions. This report should be submitted to the Provost (or Designee) remedies designed to restore or preserve equal access to the University's education programs or activities to be provided by the University to the Complainant; and
- (8) The procedures and permissible bases for the Complainant and the Respondent to appeal.
- d. The Hearing Panel Decision will be provided to the Equity Officer (for Student Respondents) within five (5) business days of the end of deliberations. Deviation from the five-day period The Hearing Panel Decision will be communicated provided to the Parties, and the Provost (or Designee), along with an expected time- (for completion. Faculty Respondents) within five (5) business days of the end of deliberations.
- e. The Provost (or Designee) (for Faculty Respondents) or the Equity Officer (for Student Respondents) will inform the Respondent and the Complainant simultaneously of the hearing panel report Hearing Panel Decision and the Provost's finding of sanctions, if applicable, within five (5) business days of receipt of the panel report, without significant time delay between notifications. Notification will be made Hearing Panel Decision; such notification will be sent in writing and will be delivered either: (1) in person, (2) by email only to the Party's University-issued email account if the Party has consented, or by the method of notification previously designated in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official University records and emailed to the party's University-issued email account. If there is no local address on file, mail will be sent to the Party's permanent address by the Party. Notice is presumptively deemed delivered, when: 1) provided in person 2) emailed to the individual (when prior consent — whether electronically or in writing — has been given to receipt of all notifications by email) or 3) when mailed and emailed to their University-issued email account or 3) when sent via the alternate method of notification specified by the Party.
- f. The Hearing Panel Decision will become final either on the date that the Parties are provided with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
- g. The Equity Officer is responsible for effective implementation of any remedies.

#### S. **Sanctions and Remedial Actions.**

~~9. If the Respondent is found responsible for a violation of the University's Anti-Discrimination Policies, the Hearing Panel (or Designee when used in the Administrative Resolution Process) will recommend sanctions and remedial actions. The Provost will make and enforce the finding of sanctions and remedial actions.~~

1. **Factors Considered When Finding Sanctions/Remedial Actions.** When recommending or imposing sanctions and/or remedial actions, factors to consider include but are not limited to the following:

- 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 ~~discrimination, harassment and/or retaliation~~conduct;
- d. The need for sanctions/remedial actions to prevent the future recurrence of ~~discrimination, harassment and/or retaliation~~; and conduct;
- e. The need to remedy the effects of the ~~discrimination, harassment and/or retaliation~~conduct on the Complainant and the University community; and
- f. Any other information deemed relevant by the decision-maker(s).

2. **Types of Sanctions.**

a. The following sanctions may be imposed upon any Faculty 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:

- (1) Warning - verbal or written;
- (2) Performance Improvement Plan;
- (3) Required counseling;
- (4) Required training or education;
- (5) Loss of annual pay increase;
- (6) Loss of supervisory responsibility;
- (7) Recommendation of discipline in a training program, including recommendation of termination, suspension or other corrective or remedial actions;
- (8) For Non-Regular Faculty, immediate termination of term contract and employment;
- (9) For Regular, Untenured Faculty, immediate termination of term contract and employment. Notice of not reappointing would not be required;
- (10) Suspension without pay ~~(while the appeal is pending this is a suspension with pay)~~;
- (11) Non-renewal of appointment; and
- (12) For Regular, Tenured Faculty, suspension without pay ~~(while the appeal is pending, but not for the duration of the dismissal for cause proceedings, this is a suspension with pay)~~; removal from campus and referral to the Chancellor to initiate dismissal for cause as detailed in Section 310.060 of the Collected Rules and Regulations.



b. The following sanctions may be imposed upon any Respondent Student or Respondent Student Organization 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:

- (1) **Warning.** A notice in writing to the Respondent Student or Respondent Student Organization that there is or has been a violation of institutional regulations.
- (2) **Probation.** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe sanctions if the Respondent Student or Respondent Student Organization is found to be violating any institutional regulation(s) during the probationary period.
- (3) **Loss of Privileges.** Denial of specified privileges for a designated period of time.
- (4) **Restitution.** Compensating the University for loss, damage, or injury to University property. This may take the form of appropriate service and/or monetary or material replacement.
- (5) **Discretionary Sanctions.** Work assignments, service to the University, or other related discretionary assignments, or completion of educational programming or counseling.
- (6) **Residence Hall Suspension.** Separation of the Respondent Student from the residence halls for a definite period of time, after which the Respondent Student is eligible to return. Conditions for readmission may be specified.
- (7) **Residence Hall Expulsion.** Permanent separation of the Respondent Student from the residence halls.
- (8) **Campus Suspension.** Respondent Student is suspended from being allowed on a specific University campus for a definite period of time. Logistical modifications consistent with the sanction imposed, may be granted at the discretion of the Chief Student Affairs Officer (or Designee).
- (9) **University System Suspension.** Separation of the Respondent Student from the University System for a definite period of time, after which the Respondent Student is eligible to return. Conditions for readmission may be specified.
- (10) **Withdrawal of Recognition.** Respondent Student Organization loses its Official Approval as a recognized student organization. May be either temporary or permanent.
- (11) **University System Expulsion.** Permanent and complete separation (i.e., not eligible for online courses either) of the Respondent Student from the University System.

c. **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. Such remedial actions will vary depending on the circumstances of the policy violation(s), but may include:

- (1) Where the Complainant is a student:
  - (a) Permitting the student to retake courses;
  - (b) Providing tuition reimbursement;
  - (c) Providing additional academic support;
  - (d) Removal of a disciplinary action; and
  - (e) Providing educational and/or on-campus housing accommodations.
- (2) Where the Complainant is an employee:
  - (a) Removal of a disciplinary action;
  - (b) Modification of a performance review;
  - (c) Adjustment in pay;
  - (d) Changes to the employee's reporting relationships; and
  - (e) Workplace accommodations.

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.

d. **When Implemented.** ~~Sanctions and remedial actions are implemented immediately by the Provost unless the Chancellor stays their implementation pending the outcome of the appeal. Suspension without pay is automatically a suspension with pay during the appeal but immediately converts to a suspension without pay upon the conclusion of an appeal upholding the sanction.~~

(1) Sanctions imposed against Student Respondents are stayed until the end of any appeal period or once an appeal, if any, is final, unless the Equity Officer determines the sanctions should be imposed immediately.

(2) Sanctions against Staff Respondents shall be implemented immediately.

(3) Sanctions against Faculty Respondents shall be implemented immediately; however, for Regular, Tenured Faculty Respondents, the sanction of suspension without pay will be a suspension with pay while the appeal is pending, but not for the duration of any dismissal for cause proceedings.

(4) When the sanction is termination, actual termination will be stayed until the end of any appeal period or once an appeal, if any, is final; however, the Respondent will be suspended without pay during any appeal period or once an appeal, if any, is final.

**3. Withdrawal While Charges Pending.** Should a Respondent decide to leave the University and not participate in the investigation and/or hearing without signing a Voluntary Permanent Separation and General Release Agreement and without the approval of the Equity Officer, the Complaint may be dismissed, or the Equity Officer may determine that the process will nonetheless proceed in the Respondent's absence to a reasonable resolution and, if the Respondent is found

responsible, the Respondent will not be permitted to return to the University unless all sanctions have been satisfied.

#### T. Appeal.

1. **Grounds for appeal.** Both Complainant and Respondent are allowed to appeal the ~~findings~~summary determination ending the process, or a determination regarding responsibility in the Administrative Resolution Process or the finding(s) in the Hearing Panel Resolution Process. ~~Appeals~~ Grounds for appeals are limited to the following:
  - a. A procedural ~~error occurred~~irregularity that ~~significantly impacted~~affected the outcome of the ~~Administrative or Hearing Panel Resolution Process~~matter (e.g., ~~substantiated bias,~~ material deviation from established procedures, etc.);
  - b. To consider new evidence, ~~unavailable during the original resolution process or investigation that could substantially impact the original finding or sanction 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. 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
  - e-d. The sanctions fall outside the range typically imposed for this offense, or for the cumulative ~~disciplinary~~conduct record of the Respondent.
2. **Requests for Appeal.** Both the Complainant and the Respondent may ~~submit a request for 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. For Student and Student Organization Respondents, the Chancellor (or Designee) shall appoint an alternate Equity Resolution Appellate Officer to hear the pending appeal; For Faculty Respondents, the President (or Designee) shall appoint an alternate Equity Resolution Appellate Officer to hear the pending appeal. All requests for appeal must be submitted in writing to the ~~Chancellor~~Equity Resolution Panel Appellate Officer within ~~three~~ (5) business days of the delivery of the ~~findings~~Notice of Administrative Resolution or Hearing Panel Decision. When any Party requests an appeal, the other Party (~~Parties~~) 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 ~~three~~ (5) business days of the delivery of the notice and copy of the request for appeal, the non-appealing Party (~~Parties~~) may file a response to the request for appeal. The 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 ~~Chancellor (or Designee)~~Equity Resolution Appellate Officer will make an initial review of the appeal request(s). ~~The Chancellor (or Designee)~~The Equity Resolution Appellate Officer will review the request for appeal to determine whether:
  - a. The request is timely;
  - b. The appeal is on the basis of ~~the~~ any of the ~~three (3)~~ 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 Chancellor (or Designee)~~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 ~~Chancellor (or Designee)~~Equity Resolution Appellate Officer will render a written decision whether the request for appeal is accepted or rejected within ~~fourteen (14)~~fifteen (15) business days from receipt of the request for appeal. If no written decision is provided to the Parties within ~~fourteen (14)~~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 ~~Chancellor~~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~~Record of the Case, Administrative Resolution determination, or Hearing Panel Resolution, and ~~pertinent~~relevant documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original decision maker for reconsideration.
  - ~~b. Sanctions and remedial actions are implemented immediately unless the Chancellor stays their implementation pending the outcome of the appeal. Suspension without pay is automatically a suspension with pay during the appeal but immediately converts to a suspension without pay upon the conclusion of an unfavorable appeal.~~
  - ~~c. b.~~ The ChancellorThe Equity Resolution Appellate Officer will normally render a written decision on the appeal to all Parties within ten (10) business days from accepting the request for appeal. In the event the ~~Chancellor~~Equity Resolution Appellate Officer is unable to render a written decision within ten (10) business days from accepting the request for appeal, the ~~Chancellor~~Equity Resolution Appellate Officer will promptly notify the Parties in writing of the delay.
  - ~~d. c.~~ Once an appeal is decided, the outcome is final. Further appeals and grievances are not permitted.
6. **Extensions of Time.** For good cause, the ~~Chancellor (or Designee)~~Equity Resolution Appellate Officer may grant reasonable extensions of time (e.g.: 7-10 business days) to the deadlines in the appeal process. The ~~Chancellor (or Designee)~~Equity

Resolution Appellate Officer will notify the Parties in writing if such extensions are granted.

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

V. **Records.** In implementing this policy, records of all Complaints, resolutions, (including Conflict resolution and result therefrom, and Administrative Resolution and result therefrom), and hearings will be kept by the Equity Officer ~~or Title IX Coordinator (depending on the nature of the Complaint). An audio, video, digital, or stenographic record of the hearings will be maintained and will be filed in the office of the Provost or Title IX Coordinator and, for~~ For the purpose 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 in the Section 600.040 Process" includes, when applicable: letter(s) of notice, exhibits, hearing record (an audio, video, digital or stenographic record of the hearing); the findings on each of the alleged policy violations by either the Hearing Panel (or Provost's Designee); the finding of sanctions by the Provost; and the decision on the appeal, if applicable.~~ The Record of the Case ~~in the Section 600.040 Process~~ will be kept for 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.

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W. **Dismissal for Cause Referral.** If the recommended sanction for a Regular, Tenured Faculty member is referral to the Chancellor to initiate Dismissal for Cause, the Record of the Case will be forwarded to the appropriate Faculty Committee on Tenure. Because the Dismissal for Cause proceeding is not a re-hearing of the ~~complaint~~ Complaint, the Record of the Case will be included as evidence and the

findings will be adopted for proceeding as detailed in Section 310.060: Procedures in Case of Dismissal for Cause in the Collected Rules and Regulations.

~~Retaliation. Retaliation is any adverse action taken against a person because of that person's participation in protected activity.~~

**X. Retaliation.** The University strictly prohibits retaliation against any person for making any good faith report of discrimination, ~~or harassment, or sexual misconduct~~ or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of discrimination, ~~harassment, or sexual misconduct~~ 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.

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 ~~or Title IX Coordinator.~~ 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.

## **600.040 Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against a Faculty Member or Student or Student Organization**

Bd. Min. 2-5-15; Revised 7-28-20 with 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 Faculty Member(s), a student(s), or a student organization. Further, when the report involves allegations against the President or a Chancellor, upon consultation between the Office of the General Counsel and the Equity Officer, the investigation may be conducted by an outside investigator. This procedure does not govern 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 600.040 of the Collected Rules and Regulations against Faculty Members, Students, or Student Organizations 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, or (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 is related to the Faculty Member's fitness or performance in the professional capacity of teacher or researcher or (4) if the conduct occurs when the Faculty Member is serving in the role of a University employee.

If a Complainant simultaneously alleges or the investigation suggests violations of the University's Anti-Discrimination Policies and (1) violation, misinterpretation, or arbitrary application of another written University rule, policy, regulation, or procedure which applies personally to the Faculty member; and/or (2) that there has been an infringement on the academic freedom of the Faculty member, 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 Provost, Equity Officer, and/or the Investigator may consult with and/or seek guidance from the Human Resources staff or other appropriate administrators as necessary.

If a Complainant alleges or the investigation suggests that a student conduct policy violation occurred in concert with the alleged violation of the University's Anti-Discrimination Policies, the University shall have the authority to investigate and take



appropriate action regarding each of the alleged violations of the student conduct policy pursuant to this Equity Resolution Process. In conducting such investigations, the Equity Officer and/or the Investigator may consult with and/or seek guidance from the Student Conduct Coordinator or Residential Life Coordinator as appropriate.

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 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.

**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.

**C. Definitions:**

1. **Administrative Resolution.** A voluntary resolution process where a decision-maker makes a finding on each of the alleged policy violations in a Complaint and a finding on sanctions and remedies without a hearing.
2. **Chair of the Hearing Panel ("Panel Chair").** A Chair of the Hearing Panel for a specific Complaint is designated by the Hearing Panelist Pool Chair. The Pool Chair may serve as the Chair of the Hearing Panel for a specific Complaint.
3. **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 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.

4. **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.
5. **Conflict Resolution.** A voluntary resolution process using alternative dispute resolution mechanisms such as mediation, facilitated dialogue, or restorative justice.
6. **Equity Resolution Appellate Officer.** For Student(s) or Student Organization Respondents, a trained, senior-level administrator appointed by the Chancellor (or Designee) to hear all appeals stemming from the Equity Resolution Process. For Faculty Respondents, the Chancellor (or Designee).
7. **Equity Resolution Hearing Panel (“Hearing Panel”).** A group of three (3) trained Equity Resolution Hearing Panelist Pool members who serve as the Hearing Panel for a specific Complaint. A good faith attempt will be made for the Hearing Panel to include at least one faculty member and one administrator or staff member.
8. **Equity Resolution Hearing Panelists Pool (“Hearing Panelist Pool”).** A group of at least five (5) faculty and five (5) administrators and/or staff selected by the Chancellor (or Designee) to serve as hearing panel members in the Hearing Panel Resolution process. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than ten (10) faculty members proposed by the faculty council/senate. Selection of hearing panel pool members shall be made with an attempt to recognize the diversity of the University community. Hearing Panel members from one University may be asked to serve on a hearing panel involving another University.
9. **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.
10. **Equity Support Person:** An individual selected by a Party to provide support and guidance throughout the Equity Resolution Process. Each Party is allowed one Equity Support Person.
11. **Faculty Member.** For purposes of Section 600.040, Faculty Member includes all regular and non-regular academic staff appointments as defined in Sections 310.020 and 310.035 of the Collected Rules and Regulations.
12. **Hearing Panelist Pool Chair (“Pool Chair”).** The Hearing Panelist Pool Chair is selected by the Chancellor (or Designee). The Pool Chair randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Complaint. The Pool Chair may serve as a panel member for a specific Complaint.

13. **Hearing Panel Resolution.** Resolution of a Complaint by an Equity Resolution Hearing Panel making the finding on each of the alleged policy violations. In faculty matters, the Hearing Panel will make recommendations as to any sanctions, if applicable, and the Provost will make the finding on sanctions. In matters involving students or student organizations, the Hearing Panel will make a finding on sanctions and remedial actions.
  14. **Investigators.** Investigators are trained individuals appointed by the Equity Officer to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.
  15. **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.
  16. **Record of the Case.** The Record of the Case in the Section 600.040 Process includes, when applicable: All Notices to the Parties, investigative report, recordings of Party and witness interviews, exhibits used at a hearing, the hearing record (an audio or audiovisual record of the hearing); any determination of dismissal of all or part of a Formal Complaint; the determination on each of the alleged policy violations and sanctions by either the Hearing Panel or Decision-maker; and the decision on the appeal, if any, including the request for appeal, any additional evidence submitted for the appeal, and written arguments of the parties.
  17. **Report.** Any verbal or written communication or notice of an alleged violation of the University's Anti-Discrimination Policies.
  18. **Respondent.** "Respondent" refers to the Faculty Member(s) or student(s) or student organization alleged to have violated the University's Anti-Discrimination Policies.
  19. **Student.** A person having once been admitted to the University who has not completed a course of study and who intends to or does continue a course of study in or through one of the Universities of the University System. For the purpose of these rules, student status continues whether or not the University's academic programs are in session.
  20. **Student Organization.** A recognized student organization which has received Official Approval in accordance with Section 250.010 of the Collected Rules and Regulations. Three members of the organization may represent the student organization as the Party.
  21. **Summary Resolution.** Resolution of the Complaint upon a 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.
  22. **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 (CRR).
- D. **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 University 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.

- E. 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 the 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).

**F. 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 out 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.

**G. 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 grievance 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.

**H. 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 Emergency Removal of a Respondent from the University's education program or activity on an emergency basis, if the Equity Officer, after conducting an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of discrimination or harassment, justifies removal.
  - a. In all cases in which an Emergency Removal is imposed, the Respondent will immediately be given notice and an opportunity to challenge the decision of the Equity Officer either prior to such Removal being imposed, or as soon thereafter as reasonably possible but no later than five (5) business days, to show cause why the Removal should not be implemented. Any such challenge shall be made in writing and directed to the Equity Officer who will forward such challenge to the Emergency Removal Appeal Individual/Committee, which will make a final decision on removal within three (3) business days.
  - b. Violation of an Emergency Removal under this policy may be grounds for discipline.
10. Suspending, on an interim basis, a Respondent Student Organization's operations, University recognition, access to and use of the University campus/facilities/events and/or all other University activities or privileges for which the Respondent Student Organization might otherwise be eligible, pending the completion of the Equity Process when the Equity Officer finds and believes from available information that the presence of the student organization on campus would seriously disrupt the University or constitute a danger to the health, safety, or welfare of members of the University community. The appropriate procedure to determine the future status of the student organization will be initiated within seven (7) business days.
11. Implementing an administrative leave for an employee in accordance with University Human Resources Policies. Administrative leave for an employee is not an Emergency Removal under this policy.

- I. **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 but not limited to the Investigator, Equity Officer, Provost (or Designee), the Hearing Panel, and/or the Equity Resolution Appellate Officer, and all documentary evidence must be genuine and accurate. False statements or fraudulent evidence or refusal to cooperate with the Investigator, Equity Officer, Provost (or Designee), Hearing Panel, 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 the provisions of 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 attempting to or actually intimidating or harassing any potential witness. Failure to adhere to these requirements may lead to disciplinary action, up to and including expulsion or termination.

#### **J. 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 or Administrative Resolution Processes.
7. 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.
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 hearing panel or decision-maker.
14. When the Complainant is not the reporting Party, the Complainant has full rights to participate in any Equity Resolution Process.
15. Additional Rights for Students as a Party:
  - a. To request reasonable housing, living and other accommodations and remedies consistent with Section 600.040.H.
  - b. To receive amnesty for minor student misconduct that is ancillary to the incident, at the discretion of the Equity Officer.
16. Additional Rights for Hearing Panel Resolution:
  - a. To receive notice of a hearing.
  - b. To have the names of witnesses that 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.
  - c. 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.
  - d. To have present an Equity Support Person during the hearing and to consult with such Equity Support Person during the hearing.
  - e. 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.
  - f. To testify at the hearing or refuse to testify at the hearing.
  - g. 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.
  - h. To request that the hearing be held virtually, with technology enabling participants simultaneously to see and hear each other.

**K. 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 or parent.

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 a Student Party. University Equity Support Person(s) are administrators, faculty, or staff at the University trained on the Equity Resolution Process. The Parties 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.

The Equity Support Person may not make a presentation or represent the Complainant or Respondent during the hearing. At the hearing, the Parties are expected to ask and respond to questions on their own behalf, without representation by the Equity Support Person. The Equity Support Person may consult with the Party quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the Party to the hearing panelists. If the Equity Support Person fails to follow these guidelines, they will be warned or dismissed from the hearing at the discretion of the Hearing Panel Chair.

- L. **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 a hearing, interview, or other meeting, shall receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Party to prepare to participate.

The Parties may be accompanied to any related meeting or interview 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.

**M. 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.

**N. 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 either the Administrative Resolution or Hearing Panel 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, Administrative Resolution, or Hearing Panel 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 T. If the summary determination ending the process is reversed, the Equity Resolution Appellate Officer will direct the process to continue pursuant to this policy.

- O. **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 a hearing. It is not necessary to pursue Conflict Resolution prior to pursuing the Administrative or Hearing Panel Resolution Process and either Party can stop the Conflict Resolution Process at any time and request either the Administrative Resolution Process or Hearing Panel 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 or Hearing Panel 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 or Hearing Panel Resolution processes. 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.

Among the resolutions which may be reached at this stage (or at any point prior to a finding through Administrative or Hearing Panel Resolution), the Respondent may voluntarily request to permanently separate from the University of Missouri System. If the Equity Officer accepts the Respondent's proposal, the Respondent must sign a Voluntary Permanent Separation and General Release agreement to effectuate their separation and terminate the Equity Resolution process.

**P. Procedural Details for Administrative Resolution and Hearing Panel Resolution.**

For both the Administrative Resolution and Hearing Panel Resolution, which are described in more detail below, the following will apply:

1. 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.
2. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Equity Resolution process.
3. The decision-maker has 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:
  - a. 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.
  - b. 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-maker.

- c. 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-maker.
  - d. 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.
  - e. The decision-maker 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.
4. The Respondent may not directly question the Complainant and the Complainant may not directly question the Respondent. However, if both Complainant and Respondent 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.
  5. In the Administrative Resolution Process, the Respondent and the Complainant 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 to such questions will be shared with the requesting Party.
  6. At any time prior to the deadline in the Notice of Administrative Resolution, the Complainant and/or the Respondent may request that the Complaint shift from the Administrative Resolution process to the Hearing Panel Resolution process. Upon receipt of such timely request from either Party, the Complaint will shift to the Hearing Panel Resolution Process.
  7. The Resolution Processes may proceed regardless of whether the Respondent chooses to participate in the investigation, the finding or the hearing.
  8. The Administrative Resolution or Hearing Panel 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.
  9. For good cause, the decision-maker may, in their discretion, grant reasonable extensions to the time frames and limits provided.

**Q. Administrative Resolution:**

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

when both Parties elect to resolve the Complaint using the Administrative Resolution Process.

2. The Administrative Resolution process consists of:
  - a. A prompt, thorough and impartial investigation;
  - b. A separate meeting with each Party and their Equity Support Person, if any, and the decision-maker, if requested;
  - c. A written finding by the decision-maker on each of the alleged policy violations:
    - (1) For Faculty Respondents by the Provost (or Designee)
    - (2) For Student/Student Organization Respondents by the Equity Officer
  - d. A written finding on sanctions for findings of responsibility:
    - (1) For Faculty Respondents by the Provost
    - (2) For Student/Student Organization Respondents by the Equity Officer
3. At least fifteen (15) business days prior to meeting with the decision-maker, or if no meeting is requested, at least fifteen (15) business days prior to the decision-maker rendering a finding(s), the decision-maker will send a letter (Notice of Administrative Resolution) to the Parties containing the following information:
  - a. A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
  - b. The name of the decision-maker.
  - c. Reference to or attachment of the applicable procedures.
  - d. A copy of the final investigative report.
  - e. The option and deadline of ten (10) business days from the date of the notice to request a meeting with the decision-maker.
  - f. An indication that the Parties may have the assistance of an Equity Support Person of their choosing at the meeting with the decision-maker, though the Equity Support Person's attendance at the meeting is the responsibility of the respective Parties.
  - g. The option and the deadline of ten (10) business days from the date of the Notice to request in writing that the matter be referred to the Hearing Panel Resolution process. If neither Party requests the Hearing Panel Resolution Process within the required time period, the matter will be decided through the Administrative Resolution Process and the right to the Hearing Panel Resolution Process is waived.
4. 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.
5. Within ten (10) business days from the date of the Notice of Administrative Resolution, the Parties have the right to have the matter referred to the Hearing Panel Resolution Process. If neither Party requests the Hearing Panel Resolution Process within the required time period, the matter will be decided through the

Administrative Resolution Process and the right to the Hearing Panel Resolution Process is waived.

6. The decision-maker can, but is not required to, meet with and question the Investigator and any identified witnesses. The decision-maker may request that the Investigator conduct additional interviews and/or gather additional information. The decision-maker 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-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 the evidence standard. For Faculty Respondents, the Provost's Designee may recommend appropriate sanctions and remedial actions but only the Provost will find sanctions or remedial actions. The findings and sanctions are subject to appeal.
7. The decision-maker will inform the Respondent and the Complainant simultaneously of the finding on each of the alleged policy violations and the finding of sanctions, if applicable, 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.
8. Either Party may appeal a decision under Administrative Resolution in accordance with Section T of this policy.

#### **R. Hearing Panel Resolution**

1. **Equity Resolution Hearing Panelist Pool.** Each University will create and annually train a pool of not less than five (5) faculty and five (5) administrators and/or staff to serve as hearing panel members in the Hearing Panel Resolution Process. The faculty hearing panel members selected by the Chancellor (or Designee) shall be selected from a list of no less than ten (10) faculty members proposed by the faculty council/senate. Panelists are selected by the Chancellor (or Designee) and serve a renewable one-year term. Selection of hearing panel pool members shall be made with an attempt to recognize the diversity of the University community. Hearing Panel members from one University may be asked to serve on a hearing panel involving another University.

The Chancellor (or Designee) will select a Hearing Panelist Pool Chair ("Pool Chair"). The Pool Chair randomly selects and coordinates the hearing panel members to serve on the Hearing Panel for a specific Formal Complaint. The Pool Chair may serve as a panel member for a specific Formal Complaint.



Administrators, faculty, and staff will be removed from the Hearing Panelist Pool if they fail to satisfy the annual training requirements, as determined by the Equity Officer. Under such circumstances, the Equity Officer will notify the Chancellor (or Designee), who will inform the administrator, faculty, or staff member of the discontinuation of their term.

2. **Equity Resolution Hearing Panel (“Hearing Panel”)**. When a Complaint is not resolved through the Administrative Resolution Process, the Hearing Panelist Pool Chair will randomly select three (3) members from the Hearing Panelist Pool to serve on the specific Hearing Panel. A good faith attempt will be made for the Hearing Panel to include at least one faculty member and one administrator or staff member. Up to two (2) alternates may be designated to sit in throughout the process as needed. The University reserves the right to have its attorney present during the hearing and during deliberations to advise the Hearing Panel.

3. **Notice of Hearing.**

- a. At least twenty (20) business days prior to the hearing, the Equity Officer will send a letter (Notice of Hearing) to the Parties with the following information:
  - (1) A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.
  - (2) A description of or attachment of the applicable procedures.
  - (3) A statement that the Parties may have the assistance of an Equity Support Person of their choosing, at the hearing; at the hearing, though the Equity Support Person’s attendance at the hearing is the responsibility of the respective Parties.
  - (4) The time, date and location of the hearing.
  - (5) A list of the names of each of the Hearing Panel members and alternates, and information on how to raise an objection to any member of the Hearing Panel and the timeline in which to raise any objections.
  - (6) A copy of the final investigative report and exhibits.
  - (7) Notification to the Parties that all of the evidence gathered in the course of the investigation that is directly related to the allegations is available to the Parties and instructions regarding how to request access to that information.
  - (8) Notice that the Parties may request a virtual hearing and/or any necessary accommodations.
- b. The Notice of Hearing letter 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.

4. **Pre-Hearing Witness List and Documentary Evidence.**

- a. At least fifteen (15) business days prior to the hearing, the Complainant and Respondent will provide to the Investigator a list of the names of the proposed witnesses and copies of all proposed documentary evidence that a Party intends to call or use at the hearing.
- b. At least ten (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.
- c. No employee or student, directly or through others, should take any action which may interfere with the investigation or hearing procedures. 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.
- d. At least five (5) business days prior to the hearing date, the final investigative report and all exhibits will be provided to the Hearing Panel members.

**5. Objection to or Recusal of Hearing Panel Member.**

- a. Hearing Panel members shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If a Hearing Panel member feels that they have a conflict of interest or bias, or cannot make an objective determination, they must recuse themselves from the proceedings in advance of the hearing.
- b. The Parties will have been given the names of the Hearing Panel members in the Notice of Hearing. Should any Complainant or Respondent object to any panelist, they must raise all objections, in writing, to the Equity Officer at least fifteen (15) business days prior to the hearing.
- c. Hearing panel members will only be unseated and replaced if the Equity Officer concludes that good cause exists for the removal of a panel member. Good cause may include, but is not limited to, bias that would preclude an impartial hearing or circumstances in which the Hearing Panel member's involvement could impact the Party's work or learning environment due to current or potential interactions with the Hearing Panel member (e.g., a panel member being in the same department as either Party). If the Equity Officer determines that a Hearing Panel member should be unseated and replaced, then the Equity Officer will ask the Hearing Panel Pool Chair to randomly select another member from the pool to serve on the Hearing Panel. The Equity Officer will provide a written response to all Parties addressing any objections to the Hearing Panel members.

**6. Request for Alternative Attendance or Questioning Mechanisms.** The Chair of the Hearing Panel, in consultation with the Parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the Investigator(s) in the investigative report or during the hearing. All Parties will have ample

opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the Parties.

All hearings will be live. However, at the request of either Party, or by the University's designation, the live hearing may occur with the Parties located in separate rooms with technology enabling the Hearing Panel and their legal advisor, if any, the Parties and their Equity Support Person, and the Investigator, to simultaneously see and hear the Party or the witness answering questions. Should any hearing take place in this manner, the Equity Officer (or Designee) shall be in charge of the technology during the hearing. The University will make reasonable accommodations for the Parties in keeping with the principles of equity and fairness.

7. **Requests to Reschedule the Hearing Date.** For good cause, the Chair of the Hearing Panel may grant requests to reschedule the hearing date.
8. **Conduct of Hearing.** The Chair of the Hearing Panel ("Chair" in this subsection) shall preside at the hearing, call the hearing to order, call the roll of the Hearing Panel and alternates in attendance, ascertain the presence or absence of the Investigator, the Complainant and the Respondent, confirm receipt of the Notice of Allegations and Notice of Hearing by the Parties, report any extensions requested or granted, and establish the presence of any Equity Support Persons. Formal rules of evidence shall not apply.
  - a. **Order of Evidence.** The order of evidence shall be the following:
    - (1) **Investigator's Report and Testimony.** The Investigator(s) 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(s) 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(s) will remain present during the entire hearing process.
    - (2) **Complainant's Evidence.** The Complainant may give testimony and be subject to questioning by the Investigator, the Respondent (through the Hearing Panel Chair as discussed in Section 600.040.P above) and the Hearing Panel. The Complainant may also call and question witnesses who may also then be questioned by the Respondent, the Investigator and the Hearing Panel. The Complainant may also submit documentary evidence.
    - (3) **Respondent's Evidence.** The Respondent may give testimony and be subject to questioning by the Investigator, the Complainant (through the Chair as discussed in Section 600.040.P above) and the Hearing Panel. The Respondent may also call and question witnesses who may also then

be questioned by the Complainant, the Investigator and the Hearing Panel. The Respondent may also submit documentary evidence.

- (4) **Record of Hearing.** The Chair of the Hearing Panel shall arrange for recording of the hearing, whether by audio, video, digital or stenographic means. The recording of the hearing will become part of the Record of the Case in the Section 600.040 Process.

#### **9. Process Rules and Rights of the Hearing Panel.**

- a. The relevancy and admissibility of any evidence offered at the hearing shall be determined by the Chair, whose ruling shall be final, unless the Chair shall present the question to the Hearing Panel at the request of a member of the Hearing Panel, in which event, the ruling of the Hearing Panel by majority vote shall be final.
- b. To question witnesses or evidence introduced by the Investigator, the Complainant or the Respondent at any time during the hearing process.
- c. To call additional witnesses and submit documentary evidence.
- d. To exclude a witness proposed by the Investigator, the Complainant or the Respondent if it is determined their testimony would be redundant or not relevant.
- e. To dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the Chair of the Hearing Panel.
- f. To have present a legal advisor to the Hearing Panel, who shall be designated by the Office of the General Counsel.
- g. To have the names of witnesses that may be called by the Investigator, the Complainant and the Respondent, all relevant documentary evidence that may be introduced by those Parties, and a complete copy of the investigative report at least five (5) business days prior to the hearing.
- h. Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the Chair, whose ruling shall be final unless the Chair shall present the question to the Hearing Panel at the request of a member of the Hearing Panel, in which event, the ruling of the Hearing Panel by majority vote shall be final.

#### **10. Findings of the Hearing Panel.**

- a. The Hearing Panel will deliberate with no others present, except any legal advisor to the Hearing Panel, to find whether the Respondent is responsible or not responsible for the policy violation(s) in question. The Hearing 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).
- b. If a Student or Student Organization Respondent is found responsible by a majority of the Hearing Panel, the Hearing Panel will determine the appropriate sanctions which will be imposed by the Equity Officer. If a Faculty Respondent is found responsible by a majority of the Hearing Panel, the Hearing Panel will

- recommend appropriate sanctions to the Provost, who will determine and impose the appropriate sanctions.
- c. The Hearing Panel Chair will prepare a written determination regarding responsibility ("Hearing Panel Decision") and deliver it to the Provost (or Designee) (for Faculty Respondents) or the Equity Officer (for Student Respondents) detailing the following:
    - (1) Identification of the allegations potentially constituting discrimination or harassment, as defined in CRR 600.010, and the determination of the Hearing Panel.
    - (2) A description of the procedural steps taken from the receipt of the Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence and hearings held;
    - (3) Findings of fact supporting the determination and any information the Hearing Panel excluded from its consideration and why;
    - (4) Conclusions regarding the application of the University's Anti-Discrimination policies to the facts;
    - (5) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
    - (6) For Student Respondents, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education programs or activities will be provided by the University to the Complainant;
    - (7) For Faculty Respondents, any disciplinary sanctions the Hearing Panel recommends to be imposed on the Respondent and any recommended remedies designed to restore or preserve equal access to the University's education programs or activities to be provided by the University to the Complainant; and
    - (8) The procedures and permissible bases for the Complainant and the Respondent to appeal.
  - d. The Hearing Panel Decision will be provided to the Equity Officer (for Student Respondents) within five (5) business days of the end of deliberations. The Hearing Panel Decision will be provided to the Provost (or Designee) (for Faculty Respondents) within five (5) business days of the end of deliberations.
  - e. The Provost (or Designee) (for Faculty Respondents) or the Equity Officer (for Student Respondents) will inform the Respondent and the Complainant simultaneously of the Hearing Panel Decision and the Provost's finding of sanctions, if applicable, within five (5) business days of receipt of the Hearing Panel Decision; such notification will be sent 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.
- f. The Hearing Panel Decision will become final either on the date that the Parties are provided with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
  - g. The Equity Officer is responsible for effective implementation of any remedies.

## **S. Sanctions and Remedial Actions.**

### **1. Factors Considered When Finding Sanctions/Remedial Actions.** When recommending or imposing sanctions and/or remedial actions, factors to consider include but are not limited to the following:

- 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).

### **2. Types of Sanctions.**

- a. The following sanctions may be imposed upon any Faculty 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:
  - (1) Warning - verbal or written;
  - (2) Performance Improvement Plan;
  - (3) Required counseling;
  - (4) Required training or education;
  - (5) Loss of annual pay increase;
  - (6) Loss of supervisory responsibility;
  - (7) Recommendation of discipline in a training program, including recommendation of termination, suspension or other corrective or remedial actions;
  - (8) For Non-Regular Faculty, immediate termination of term contract and employment;
  - (9) For Regular, Untenured Faculty, immediate termination of term contract and employment. Notice of not reappointing would not be required;
  - (10) Suspension without pay;
  - (11) Non-renewal of appointment; and
  - (12) For Regular, Tenured Faculty, suspension without pay, removal from campus and referral to the Chancellor to initiate dismissal for cause as detailed in Section 310.060 of the Collected Rules and Regulations.

- b. The following sanctions may be imposed upon any Respondent Student or Respondent Student Organization 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:
- (1) **Warning.** A notice in writing to the Respondent Student or Respondent Student Organization that there is or has been a violation of institutional regulations.
  - (2) **Probation.** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe sanctions if the Respondent Student or Respondent Student Organization is found to be violating any institutional regulation(s) during the probationary period.
  - (3) **Loss of Privileges.** Denial of specified privileges for a designated period of time.
  - (4) **Restitution.** Compensating the University for loss, damage, or injury to University property. This may take the form of appropriate service and/or monetary or material replacement.
  - (5) **Discretionary Sanctions.** Work assignments, service to the University, or other related discretionary assignments, or completion of educational programming or counseling.
  - (6) **Residence Hall Suspension.** Separation of the Respondent Student from the residence halls for a definite period of time, after which the Respondent Student is eligible to return. Conditions for readmission may be specified.
  - (7) **Residence Hall Expulsion.** Permanent separation of the Respondent Student from the residence halls.
  - (8) **Campus Suspension.** Respondent Student is suspended from being allowed on a specific University campus for a definite period of time. Logistical modifications consistent with the sanction imposed, may be granted at the discretion of the Chief Student Affairs Officer (or Designee).
  - (9) **University System Suspension.** Separation of the Respondent Student from the University System for a definite period of time, after which the Respondent Student is eligible to return. Conditions for readmission may be specified.
  - (10) **Withdrawal of Recognition.** Respondent Student Organization loses its Official Approval as a recognized student organization. May be either temporary or permanent.
  - (11) **University System Expulsion.** Permanent and complete separation (i.e., not eligible for online courses either) of the Respondent Student from the University System.

c. **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. Such remedial actions will vary depending on the circumstances of the policy violation(s), but may include:

- (1) Where the Complainant is a student:
  - (a) Permitting the student to retake courses;
  - (b) Providing tuition reimbursement;
  - (c) Providing additional academic support;
  - (d) Removal of a disciplinary action; and
  - (e) Providing educational and/or on-campus housing accommodations.
- (2) Where the Complainant is an employee:
  - (a) Removal of a disciplinary action;
  - (b) Modification of a performance review;
  - (c) Adjustment in pay;
  - (d) Changes to the employee's reporting relationships; and
  - (e) Workplace accommodations.

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.

d. **When Implemented.**

- (1) Sanctions imposed against Student Respondents are stayed until the end of any appeal period or once an appeal, if any, is final, unless the Equity Officer determines the sanctions should be imposed immediately.
- (2) Sanctions against Staff Respondents shall be implemented immediately.
- (3) Sanctions against Faculty Respondents shall be implemented immediately; however, for Regular, Tenured Faculty Respondents, the sanction of suspension without pay will be a suspension with pay while the appeal is pending, but not for the duration of any dismissal for cause proceedings.
- (4) When the sanction is termination, actual termination will be stayed until the end of any appeal period or once an appeal, if any, is final; however, the Respondent will be suspended without pay during any appeal period or once an appeal, if any, is final.

3. **Withdrawal While Charges Pending.** Should a Respondent decide to leave the University and not participate in the investigation and/or hearing without signing a Voluntary Permanent Separation and General Release Agreement and without the approval of the Equity Officer, the Complaint may be dismissed, or the Equity Officer may determine that the process will nonetheless proceed in the Respondent's absence to a reasonable resolution and, if the Respondent is found responsible, the Respondent will not be permitted to return to the University unless all sanctions have been satisfied.

T. **Appeal.**



1. **Grounds for appeal.** Both Complainant and Respondent are allowed to appeal the summary determination ending the process, or a determination regarding responsibility in the Administrative Resolution Process or the finding(s) in the Hearing Panel Resolution Process. Grounds for appeals are limited to the following:
  - a. A procedural irregularity that affected the outcome of the matter (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. 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
  - d. The sanctions fall outside the range typically imposed for this offense, or for the cumulative conduct 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. For Student and Student Organization Respondents, the Chancellor (or Designee) shall appoint an alternate Equity Resolution Appellate Officer to hear the pending appeal; For Faculty Respondents, the President (or Designee) 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 Panel Appellate Officer within five (5) business days of the delivery of the Notice of Administrative Resolution or Hearing Panel Decision. 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 response to the request for appeal. The 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). The Equity Resolution Appellate Officer will review the request for appeal 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, Administrative Resolution determination, or Hearing Panel Resolution, and relevant 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 normally render a written decision on the appeal to all Parties within ten (10) business days from accepting the request for appeal. 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.
  - c. 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.

U. **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 time frame 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.

V. **Records.** In implementing this policy, records of all Complaints, resolutions (including Conflict resolution and result therefrom, and Administrative Resolution and result therefrom), and hearings will be kept by the Equity Officer. For the purpose 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 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.

**W. Dismissal for Cause Referral.** If the recommended sanction for a Regular, Tenured Faculty member is referral to the Chancellor to initiate Dismissal for Cause, the Record of the Case will be forwarded to the appropriate Faculty Committee on Tenure. Because the Dismissal for Cause proceeding is not a re-hearing of the Complaint, the Record of the Case will be included as evidence and the findings will be adopted for proceeding as detailed in Section 310.060: Procedures in Case of Dismissal for Cause in the Collected Rules and Regulations.

**X. 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, Provost (or Designee), Hearing Panel, 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 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.

**600.050 Equity Resolution Process for Resolving Complaints of Discrimination, and Harassment, ~~and Sexual Misconduct~~ 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 ~~Complaint~~report of violation of the University's Anti-Discrimination Policies. The procedures described below apply to such ~~Complaints with 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 ~~Complaint~~report involves allegations against the President or a Chancellor, upon consultation between the Office of the General Counsel and the System ~~Title IX Administrator~~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.

**A.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,~~patients~~ 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 ~~servicing~~servicing 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 ~~(i.e., the Grievance Procedure for Administrative, Service and Support Staff shall not apply).~~ In conducting such investigations, the Equity HR Officer, ~~Title IX Coordinator, and/or their~~ Equity Officer, and/or the Investigator may consult with and/or seek guidance from Human Resources staff or appropriate administrators as necessary.

**B.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.

**C.D. Definitions:**

- ~~1. **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 and the Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy located at Section 600.020 of the Collected Rules and Regulations.~~
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~~ or harassment ~~or sexual misconduct~~ 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~~ or harassment ~~or sexual misconduct~~ 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~~ 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~~ 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 ~~Complaints~~ 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. **Respondent.** The Staff Member of Members alleged to have violated the University's Anti-Discrimination Policies.~~
- ~~4.1. **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.~~
- ~~5.1. **Complaint.** Any verbal or written communication or notice of an alleged violation of the University's Anti Discrimination Policies.~~
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.
- ~~6. **Conflict Resolution Advisors.** The individuals selected by the Complainant and the Respondent to provide support and guidance throughout the Equity Resolution Process. Each Party is allowed one Adviser.~~
4. 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 ~~a~~Administrative ~~r~~Resolution process.
- ~~7. **Investigators.** Investigators are trained individuals appointed by the Equity Officer or Title IX Coordinator (or Designee) to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.~~
- ~~8. **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 reports or 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.
- ~~9. Title IX Coordinator.~~ The Title IX Coordinator is a trained administrator designated by the Chancellor (or Designee) to receive and assist with the investigation and resolution of reports or Complaints regarding violation of the University's Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy. All references to "Title IX Coordinator" throughout this policy refer to the Title IX Coordinator or the Title IX Coordinator's designee.
- ~~10.6.~~ **Equity Human Resources Officers Officer** ("Equity HR Officers Officer"). The Equity Human Resources Officers ("Equity HR Officers Officer") are trained human resources and/or equity administrators designated by either the Chancellor (or Designee) for campus-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.
- ~~11.~~ **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 HR Officer, the Equity HR Officer or Title IX Coordinator will determine the appropriate manager to act as the Supervisor for purposes of this rule.
- ~~12.8.~~ **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 campus-University Staff Members or Health System Staff Members Respondents, or the President (or Designee) for System Staff Members or University Respondents.
- ~~9.~~ **Summary 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.
- ~~13.10.~~ **Investigators.** Resolution of the Complaint upon the determination Investigators are trained individuals appointed by the Equity Officer or Title IX Coordinator that there is an insufficient basis to proceed with the Complaint that the Respondent violated to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.
- ~~14.11.~~ **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.
- ~~15.~~ **Conflict Resolution.** Resolution using alternative dispute resolution mechanisms such as mediation, facilitated dialogue or restorative justice.
- ~~16.~~ **Administrative Resolution.** Resolution of a Complaint by the Equity HR Officer or Title IX Coordinator and the Respondent's Supervisor.



- ~~17.12.~~ **Record of the Case in Section 600.050 Process.** 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 Equity Officer, Equity HR Officer, and/or Title IX Coordinator, 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.
- ~~18.~~ **Report Parties.** ~~The Complainant and the Respondent are collectively referred to as the Parties.~~
- ~~13.~~ **Filing a Complaint.** ~~Any student, employee, volunteer, visitor or patient who believes that a Staff Member has violated the University's Equal Employment/Education Opportunity and Nondiscrimination Policy should report the Complaint to the Equity Officer. Any student, employee, volunteer, visitor or patient who believes that a Staff Member has violated the Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy should report the complaint to the Title IX Coordinator. Complainants~~ 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.

**D.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. ~~Further, reports may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Equity Officer.~~ 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 ~~Complainants~~ Parties and witnesses accused of minor student conduct violations ancillary to the incident.

**F. Preliminary Investigation. Contact and Inquiry.** Upon receiving ~~the Complaint~~ a report, the Equity ~~HR Officer or Title IX Coordinator shall~~ 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 preliminary/limited investigation. The purpose of the~~ sufficient to identify to Complainant to the extent possible.

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

If the Complaintreport describes a possible violation, the Equity ~~HR-Officer-or Title IX Coordinator~~ will refer the matter to the appropriate procedural process and provide appropriate interim-remedies-supportive measures. If the Complaintreport does not describe a possible violation, the matter will be referred to the appropriate non-equity Equity process. Under those circumstances, the Equity ~~HR-Officer-or Title IX Coordinator~~ 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 investigationinquiry shall be conducted promptly (typically within 7-10 business days) of receiving the report.

#### **G. Filing a Complaint**~~-At~~

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 preliminary investigation, the Equity HR Officer or Title IX Coordinator will provide the Complainant with written 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 regarding the 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 ~~and emailed~~.

G-1. **Supportive Measures.** Supportive measures are non-disciplinary, non-punitive individualized services offered as ~~appropriate procedural process and interim remedies, if any,~~ 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:

E. ~~Interim Remedies.~~ During the Equity Resolution Process and prior to a finding whether an alleged violation has occurred, the Equity Officer or Title IX Coordinator (or their Designee), in consultation with the Equity HR Officer when directly impacting a Staff Member, may provide interim remedies including but not limited to, one or more of the following:

1. Referral and facilitating contact for the Complainant ~~to on- or off-campus~~ Respondent for counseling, medical services and/or mental health or other support services.
2. ~~Implementing Mutual restrictions on contact limitations on-between the Respondent or on all Parties.~~
3. ~~Referral of the Complainant to victim advocacy and support~~ Providing campus escort services ~~either on and/or off to the Parties.~~

3-4. ~~Increased security and monitoring of certain areas of the campus.~~

4-5. ~~Adjusting the extracurricular activities, work schedules, work assignments, supervisory responsibilities, or work arrangements of the Complainant and/or the Respondent, as appropriate.~~

5-6. ~~If the Complainant either Party~~ is a student:

- a. Referral of ~~Complainant that Party~~ to academic support services and any other services that may be beneficial to the ~~Complainant Party.~~
- b. Adjusting the courses, assignments, and/or exam schedules, ~~etc.~~ of the ~~Complainant Party.~~
- c. Altering the on-campus housing assignments, dining arrangements, or other campus services for the ~~Complainant Party.~~

6-7. ~~Providing limited transportation accommodations for the Complainant Parties.~~

7-8. ~~Informing the Complainant Parties of the right to notify law enforcement authorities of the alleged incident and offering to help facilitate such a report.~~

8-9. ~~Implementing an administrative leave from work for an employee in accordance with or without pay for the Complainant and/or Respondent.~~ University Human Resources Policies.

~~Implementing suspension from campus with or without pay for the Respondent.~~

- 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, ~~the Title IX Coordinator~~ 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, ~~the Title IX Coordinator~~ and/or the Equity Resolution Appellate Officer by an employee may be the basis for personnel action ~~or pursuant to CRR 370.010 or HR 601, or other applicable University policies, or if~~ by a student may be the basis for ~~student conduct~~disciplinary action pursuant to ~~Section CRR 200.010.B.14 or other provisions of Section 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. ~~Nothing in this provision is intended to require a Complainant to participate in the process.~~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 ~~attempting to attempt~~ or ~~actually intimidating~~actual intimidation or ~~harassing~~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 ~~Complainant~~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 ~~campus~~University support resources (such as counseling and mental health services and University health services).
  4. To request a no contact directive between the Parties.
  - 4-5. To have an ~~Advisory~~Equity Support Person of the ~~Complainant's~~Party's choice accompany the ~~Complainant~~Party to all interviews, meetings, and proceedings throughout the Equity Resolution Process.
  6. To refuse to have an allegation resolved through ~~the~~Conflict Resolution Process.
1. To ~~have an opportunity~~receive prior to ~~present a list of potential witnesses and provide evidence to the Investigator.~~
  2. To have Complaints heard in substantial accordance with these procedures.
  3. When the Complainant is not the reporting Party, The Complainant has full rights to participate in any Equity~~Administrative~~ Resolution Process.

4. ~~To be informed in writing of the finding, rationale, sanctions and remedial actions.~~
5. ~~To, an investigative report the matter to law enforcement (if applicable) and to have assistance in making that report.~~
6. ~~To have fairly summarizes the relevant evidence in an opportunity to appeal the findings and sanctions.~~

**F. ~~Rights of the Respondent in the Equity Resolution Process.~~**

1. ~~To be treated with respect by University officials.~~
2. ~~To have access to campus support resources (such as counseling and mental health services and University health services), unless removed from campus pending the completion of the process.~~
3. ~~To have an Advisor of the Respondent's choice accompany the Respondent to all meetings and proceedings throughout the Equity Resolution Process.~~
7. ~~To refuse to have allegation resolved through the Conflict Resolution Process~~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.

4. ~~To receive notice of the policies alleged to have been violated.~~

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 in writing of the finding, rationale and, sanctions and remedial actions.~~

10. ~~12. To report the matter to law enforcement (if applicable) and to have assistance in making that report.~~

11. ~~13. To have an opportunity to appeal the findings and sanctions, 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 ~~Advisors.~~Equity Support Persons.** Each Complainant and Respondent is allowed to have one ~~Advisor~~Equity Support Person of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings. The Parties may select ~~whoever~~whomever they wish to serve as their ~~Advisor~~Equity Support Person, including an attorney. An ~~Advisor~~Equity Support Person is not required and any Party may elect to proceed without an ~~Advisor~~Equity Support Person.

If Complainant is a student, ~~the student Complainant~~they may request that the Equity Officer ~~or Title IX Coordinator~~ assign ~~a trained Advisor~~an Equity Support Person to provide support throughout the Equity Resolution Process. University ~~trained Advisors~~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 ~~Advisor~~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.** ~~If, following~~Upon the ~~preliminary investigation, a Complainant or the University wants to pursue~~initiation of a formal investigation, ~~then~~ the Equity Officer ~~or Title IX Coordinator (depending on the nature of the Complaint)~~ will promptly appoint a trained Investigator or a team of trained Investigators to investigate. ~~Within ten (10) business days after~~ 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 commencement of professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the formal investigation, the Investigator(s) will provideprovision 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 ~~with~~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 identifying the nature of the allegation(s) against the Respondent and stating that an investigation has commenced, either: (1) in person, (2) by email only to the Party's University issued email account if the Party has consented in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official University records and emaileddate, time, location, participants, and purpose of all meetings or investigative interviews with sufficient time for the Party to prepare to the Party's University issued emails account. ~~If there is no local address on file, mail will be sent~~participate.



~~G. The Parties may be accompanied to the Party's permanent address. Notice is presumptively deemed delivered, when: 1) provided in person; 2) emailed to the individual (when prior consent—whether electronically or in writing—has been given to receipt of all notifications by email); or 3) when mailed and emailed.~~

~~The Parties are allowed to have any related meeting or proceeding by an Advisor/Equity Support Person of their choice present with them for all Equity Resolution Process interviews, meetings and, 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 which they participate. this policy.~~

~~All investigations will be thorough, reliable and impartial.~~ The Investigator(s) will make reasonable efforts to ~~include~~ 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 ~~or Title IX Coordinator (depending on the nature of the Complaint), and the Supervisor.~~ This report may ~~include~~ 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 ~~misconduct~~ discrimination or harassment should be completed expeditiously, normally within thirty (30) business days of the ~~Equity Officer or Title IX Coordinator's decision to accept a filing of the Complaint for formal investigation.~~ Investigation of a Complaint may take longer based on the nature ~~or~~ 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 ~~the~~ completion of ~~the~~ investigation, the Equity Officer ~~or Title IX Coordinator~~ will review the investigation, which may include meeting with the Investigator(s). The investigative report is not provided to the ~~parties~~ Parties during ~~the~~ Summary Resolution, but is provided to the Parties at ~~the~~ Administrative Resolution. Based on that review, the Equity Officer ~~or Title IX Coordinator~~ 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 ~~or Title IX Coordinator~~ determines that there is a sufficient basis to proceed with the Complaint, then the Equity Officer ~~or the Title IX Coordinator~~ will direct the process to continue. The Complaint will then be resolved through either: Conflict Resolution or Administrative Resolution. ~~There is no right to request consideration or appeal the summary determination to continue the process.~~

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

~~The Complainant may request reconsideration of the~~ Upon a summary determination ending the process ~~by filing a written request with the Equity Resolution Appellate Officer within five (5) business days of,~~ the University will promptly send written notice of the summary determination. ~~If the Equity Resolution Appellate Officer decides there is a sufficient basis to proceed with the Complaint, the Equity Resolution Appellate Officer will reverse the determination ending the process and direct the process to continue. The Complaint will then be resolved through either: Conflict Resolution or Administrative Resolution. This determination to continue the process lies in the sole discretion of the Equity Resolution Appellate Officer and such determination is final. Further reason(s) therefor simultaneously to the Parties. The Parties may appeal of such determination is not permitted.~~

~~If the Equity Resolution Appellate Officer agrees with the summary determination ending the process by the Equity Officer or Title IX Coordinator and that there is an insufficient basis to proceed with the Complaint, then the process will end and the Complainant and the Respondent will be sent written notification of the determination. This determination to end the process lies in the sole discretion of the Equity Resolution Appellate Officer and such determination is final. Further appeal of such determination is not permitted 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. Either Party may request conflict Resolution at any time during the Equity Resolution Process, including during the preliminary. 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. Upon receiving such a request, or of their own accord, the Equity Officer or Title IX Coordinator 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. Conflict Resolution is often used for less serious, yet inappropriate behaviors and is encouraged as an alternative to the Administrative Resolution Process to resolve conflicts. Mediation is never utilized in cases involving allegations of nonconsensual sexual intercourse of a Complaint or nonconsensual sexual contact. a right to Administrative Resolution. It is not necessary to pursue Conflict Resolution prior to pursuing the Administrative Resolution process. Process and either Party can stop the conflict Conflict Resolution process 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 a Conflict Resolution meeting, which includes mediation or facilitated dialogue, a neutral, University assigned facilitator will foster dialogue with the Parties to an effective resolution, if possible. The Complainant's and the Respondent's Advisor Equity Support Person may attend the Conflict Resolution Meeting 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 of Title IX Coordinator for review and referral to the appropriate University Process for discipline or sanctions. The Equity Officer will keep records of any resolution Conflict Resolution that is reached, and failure to abide by the agreed upon resolution may result in sanctions.~~

In the event the Parties are unable to reach a mutually agreeable resolution, the ~~investigation~~matter will be referred back to the Administrative Resolution ~~Process~~PROCESS. The ~~consent~~content of the Parties' discussion during the ~~conflict~~Conflict Resolution Process will be kept confidential in the event the matter proceeds to the ~~Administration~~Administrative Resolution ~~process~~PROCESS. The Parties' agreement to participate in, refusal to participate in, or termination of participation in ~~conflict~~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 maker (i.e., the Investigator, Equity Officer or Title IX Coordinator, Equity HR Officer or Supervisor) has~~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) Questioning or evidence about the Complainant's prior sexual conduct is not permitted, though the decision maker may grant a limited exception in regards to the sexual history between the Parties, if deemed relevant.~~

~~(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.~~

~~(1)(2)~~(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 ~~the Complainant or the Respondent's~~Party's character is of limited utility and shall not be admitted unless deemed relevant by the decision ~~maker~~makers.

~~(2)(3)~~(3) Incidents or behaviors of ~~the Respondent~~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 ~~the Respondent~~ a Party that shows a pattern may be considered, only if deemed relevant by the ~~Equity HR Officer (or Designee)~~ decision-makers.

~~(4) The~~ 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 ~~Investigator(s) or Equity HR Officer (or Designee)~~ 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 ~~will~~ 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 ~~sixty (60) business~~ a reasonably prompt time period, not to exceed one hundred twenty (120) days, following the Equity Officer's receipt of the ~~Equity Officer or Title IX Coordinator's decision to accept the~~ Complaint for formal investigation. Deviations from this timeframe. Unusual delays will be promptly communicated to both Parties.
  - f. ~~The~~ For good cause, the Equity Officer (for University Respondents), or Equity HR Officer (or ~~Designee~~ for Staff Respondents) may, in their discretion, grant reasonable extensions to the timeframes and limits provided.
2. **Process for Administrative Resolution:** ~~Resolution by the Equity HR Officer and Supervisor.~~

Administrative Resolution ~~by the Equity HR Officer and Supervisor~~ 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~~ Investigator;
- b. ~~A separate meeting with each Party and their~~ Equity Support Person, if any, and the joint decision-makers, if requested;
- ~~b.~~ 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
- ~~b.c.~~ A joint finding by the Equity HR Officer and Supervisor on 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 ~~fourteen (14)~~fifteen (15) business days prior to meeting with the ~~Equity HR Officer and Supervisor~~decision-makers or if no meeting is requested, at least ~~fourteen (14)~~fifteen (15) business days prior to the decision-makers rendering a finding(s), the Equity Officer (for University Respondents) or Equity HR Officer and Supervisor rendering a finding(s) (or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the Parties), the Equity HR Officer and Supervisor (for Staff Respondents) will send a letter (Notice of Administrative Resolution) ~~to the Parties with~~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 ~~investigative report~~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 ~~Equity HR Officer and Supervisor~~decision-makers.
- h. An indication that the Parties may have the assistance of an Advisory Equity Support Person of their choosing at the meeting ~~through~~with the ~~Advisor's~~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 ~~an investigative~~a copy of the final Investigative report to the Equity HR Officer and Supervisor ~~and Parties. The (if Staff Respondent) or to the~~ Equity ~~HR~~ Officer and ~~Supervisor~~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 Equity HR Officer and Supervisor~~The decision-makers may request that the Investigator(s) conduct additional interviews and/or gather additional information. The ~~Equity HR Officer and Supervisor~~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 ~~Equity HR Officer and Supervisor~~decision-makers will render a finding that the individual is in violation of

University policy for the admitted conduct. For any disputed violations, the ~~Equity HR Officer and Supervisor~~decision-makers will render a joint finding utilizing the preponderance of the evidence standard. ~~The Equity HR Officer and Supervisor~~The decision-makers will also render a finding on appropriate sanctions or remedial actions, if applicable. The ~~findings~~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 ~~five (5) ten (10)~~ business days of the ~~findings, without significant time delay between notifications. Notification last meeting with any Party or witness.~~ Notice will be made to the Respondent and the Complainant simultaneously in writing ~~and will be delivered either: (1) in person, (2) by email only to the Party's University-issued email account if the Party has consented, or by the method of notification previously designated in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective by the Party as indicated in the official University records and emailed to the Party's University issued email account. If there is no local address on file, mail will be sent to the Party's permanent address.~~ Notice is presumptively deemed delivered, when: 1) provided in person, 2) emailed to the individual ~~(to their University-issued email account, or 3) when prior consent—whether electronically or in writing—has been given to receipt of all notifications by email) or 3) when mailed and emailed—sent via the alternate method of notification specified by the Party.~~

#### ~~P.~~ **Sanctions.**

##### ~~R.~~ **Factors Considered When Finding 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. Factors considered when finding sanctions/remedial actions may include:~~ 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 ~~discrimination, harassment and/or retaliation~~conduct;
  - d. The need for sanctions/remedial actions to prevent the future recurrence of ~~discrimination, harassment and/or retaliation~~conduct;
  - e. The need to remedy the effects of the ~~discrimination, harassment and/or retaliation~~conduct on the Complainant and the University community; and

- f. Any other information deemed relevant by the ~~Equity HR Officer or Title IX Coordinator and Supervisor decision-maker(s)~~.

**2-3. Types of Sanctions.** The following sanctions may be imposed upon any Staff Member found to have violated ~~a~~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.

**3-4. 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.

**4-5. When Implemented.** Sanctions and remedial actions are implemented immediately by the Equity Officer ~~or Title IX Coordinator~~, unless the Equity Resolution Appellate Officer stays their implementation pending the outcome of the appeal.



~~Suspension without pay is automatically a suspension with pay during the appeal but immediately converts to a suspension without pay upon the conclusion of an appeal upholding the sanction.~~

## S. Appeal.

1. **Grounds for Appeal.** Both the Complainant and the Respondent are allowed to appeal the ~~findings~~ dismissal of a Complaint or any allegations therein, summary determination ending the process, or a determination regarding responsibility in the Administrative Resolution Process. ~~Appeals~~ Grounds for appeal are limited to the following:
  - a. A procedural ~~error occurred~~ irregularity that ~~significantly impacted~~ affected the outcome of the dismissal decision or the Administrative Resolution Process (e.g., ~~substantiated bias,~~ material deviation from established procedures, etc.);
  - b. To consider new evidence, ~~unavailable during the original Administrative Resolution Process or investigation~~ that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could substantially impact the original finding or sanction, 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
  - ~~e-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 ~~submit a request for~~ 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 ~~three (3)~~ 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 ~~(Parties)~~ 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 ~~three (3)~~ five (5) business days of the delivery of the notice and copy of the request for appeal, the non-appealing Party ~~(Parties)~~ 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). ~~The Equity Resolution Appellate Officer will review the request for appeal.~~ to determine whether:
  - a. The request is timely;
  - b. The appeal is on the basis of any of the ~~three~~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 ~~fourteen~~(15) business days from receipt of the request for appeal. If no written decision is provided to the Parties within ~~fourteen~~(15) business days from receipt of the request, the appeal will be deemed accepted.

5. **Review of the Appeal.** If all three ~~(3)~~ 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~~Record of the ~~Administrative Resolution Process~~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.
  - ~~a.~~ Sanctions and remedial actions are implemented immediately unless the Equity Resolution Appellate Officer stays their implementation pending the outcome of the appeal.
  - b. The Equity Resolution Appellate Officer will ~~normally render~~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.
  - ~~b-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.
  - ~~e-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 ~~and corrective actions~~ within the timeframe specified. Failure to follow through on these sanctions, and remedial ~~actions and corrective~~ actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and remedial ~~corrective~~ 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 ~~Title IX Coordinator (depending on appeal, the nature of the Complaint).~~ The ~~“Record of the Case in the Section 600.050 Process”~~ will include, if applicable, Letter(s) of Notice, exhibits, ~~the finding on each of the alleged policy violations~~ be accessible at reasonable times and ~~sanctions by the Equity Officer, Equity HR Officer, and/or Title IX Coordinator; and the decision on appeal.~~ places to the Respondent and the Complainant. The Record of the Case ~~in the Section 600.050 Process~~ 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.

U.

~~**Retaliation.** Retaliation is any adverse action taken against a person because of that person’s participation in protected activity.~~

V. **Retaliation.** The University strictly prohibits retaliation against any person for making any good faith report of discrimination, or harassment, ~~or sexual misconduct~~ or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of discrimination, ~~harassment, or sexual misconduct.~~ 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

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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 ~~or Title IX Coordinator.~~ The University will promptly investigate all ~~claims~~ 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.

## **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.



## 600.060 Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against the University of Missouri

Created 2-9-17 with effective date of 3-1-17; Deleted in entirety 7-28-20 with an effective date of 8-14-20.

~~A. **General.** The University will promptly and appropriately respond to any Complaint of violation of the University's Anti-Discrimination policies. The procedures described below apply to such complaints when the Respondent is not an individual actor, but rather the University of Missouri, one of the campuses within the University of Missouri System, or one of its or their educational programs, departments, or other institutional entities, except as noted herein. Further, this procedure shall 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.~~

~~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 remedial actions under Section 600.060 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, visitors, patients 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 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 (i.e. the non-equity grievance procedures shall not apply). In conducting such investigations, the Equity Officer, Title IX Coordinator, and/or their 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. **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 and the Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy located at Section 600.020 of the Collected Rules and Regulations.~~

~~2. **Complainant.** "Complainant" refers to the person alleged to have been subjected to discrimination, harassment or sexual misconduct 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, harassment or sexual misconduct 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 Complaints of 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. **Respondent.** The University of Missouri, one of the campuses 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 Complaint. The Equity Officer or Title IX Coordinator 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.
4. **Complaint.** Any verbal or written communication or notice of an alleged violation of the University's Anti-Discrimination Policies.
5. **Advisors.** The individuals selected by the Complainant and the Respondent to provide support and guidance throughout the Equity Resolution Process. Each Party is allowed one Advisor.
6. **Investigators.** Investigators are trained individuals appointed by the Equity Officer or Title IX Coordinator (or Designee) to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.
7. **Equity Officer.** The Equity Officer is a trained administrator designated by the Chancellor or the President (or Designee) to receive and assist with the investigation and resolution of reports or 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. **Title IX Coordinator.** The Title IX Coordinator is a trained administrator designated by the Chancellor (or Designee) to receive and assist with the investigation and resolution of reports or complaints regarding violation of the University's Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy. All references to "Title IX Coordinator" throughout this policy refer to the Title IX Coordinator or the Title IX Coordinator's designee.

- ~~9. **Designated Administrator.** Designated Administrators are administrators selected by the System Chief Diversity Officer to assist in the administrative resolution process.~~
  - ~~10. **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 the President (or Designee).~~
  - ~~11. **Summary Resolution.** Resolution of the Complaint upon the determination by the Equity Officer or Title IX Coordinator that there is an insufficient basis to proceed with the Complaint that the Respondent violated the University's Anti-Discrimination Policies.~~
  - ~~12. **Conflict Resolution.** Resolution using alternative dispute resolution mechanisms such as mediation, facilitated dialogue or restorative justice.~~
  - ~~13. **Administrative Resolution.** Resolution of a Complaint by the Equity Officer or Title IX Coordinator and Designated Administrator.~~
  - ~~14. **Record of the Case in Section 600.060 Process.** The Record of the Case in the Section 600.060 Process includes, when applicable: Letter(s) of notice, exhibits; the finding on each of the alleged policy violations by the Equity Officer or Title IX Coordinator and Designated Administrator; and the decision on appeal, if applicable.~~
  - ~~15. **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.~~
- ~~E. **Filing a Complaint.** Any student, employee, volunteer, visitor or patient who believes that the University of Missouri, one of the campuses within the University of Missouri System, or one of its or their educational programs, departments, or other institutional entities has violated the University's Equal Employment/Education Opportunity and Nondiscrimination Policy should report the Complaint to the Equity Officer. Any student, employee, volunteer, visitor or patient who believes that the University of Missouri, one of the campuses within the University of Missouri System, or one of its or their educational programs, departments, or other institutional entities has violated the Sex Discrimination, Sexual Harassment and Sexual Misconduct in Employment/Education Policy should report the Complaint to the Title IX Coordinator. Complainants 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 Complainants and witnesses accused of minor student conduct violations ancillary to the incident.~~
- ~~F. **Preliminary Investigation.** Upon receiving the Complaint, the Equity Officer or Title IX Coordinator shall conduct a preliminary investigation. The purpose of the preliminary investigation is to gather enough information to make a threshold decision regarding whether the Complaint describes a possible violation of the University's Anti-Discrimination Policies. If the Complaint describes a possible violation, the Equity Officer or Title IX Coordinator will refer the matter to the appropriate procedural process and provide appropriate interim remedies. If the Complaint does not describe a possible violation, the matter will be referred to the appropriate non-equity process. Under those circumstances, the Equity Officer or Title IX Coordinator 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 investigation shall be conducted promptly (typically within 7-10 business days of receiving the Complaint). At the conclusion of the preliminary investigation, the Equity Officer or Title IX Coordinator will provide the Complainant with written information regarding the appropriate procedural process and interim remedies, if any.~~

~~G. **Interim Remedies.** During the Equity Resolution Process and prior to a finding whether an alleged violation has occurred, the Equity Officer or Title IX Coordinator may provide interim remedies including but not limited to, one or more of the following:~~

- ~~1. Referral and facilitating contact for the Complainant to on or off campus counseling, medical services and/or mental health services.~~
- ~~2. Referral of the Complainant to victim advocacy and support services either on and/or off campus.~~
- ~~3. Adjusting the extracurricular activities, work schedules, work assignments, supervisory responsibilities, or work arrangements of the Complainant, as appropriate.~~
- ~~4. If the Complainant is a student:
  - ~~a. Referral of Complainant to academic support services and any other services that may be beneficial to the Complainant.~~
  - ~~b. Adjusting the courses, assignments, exam schedules, etc. of the Complainant.~~
  - ~~c. Altering the on-campus housing assignments, dining arrangements, or other campus services for the Complainant.~~~~
- ~~5. Providing transportation accommodations for the Complainant.~~

~~H. **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 Officer, the Title IX Coordinator, the Designated Administrator 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 Officer, the Title IX Coordinator, the Designated Administrator and/or the Equity Resolution Appellate Officer by an employee may be the basis for personnel action or by a student may be the basis for student conduct action pursuant to Section 200.010.B.14 or other provisions of Section 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. Nothing in this provision is intended to require a Complainant to participate in the process.~~

~~I.~~

~~No employee or student, directly or through others, should take any action which may interfere with the investigation. Employees and students are prohibited from attempting to or actually intimidating or harassing any potential witness. Failure to adhere to these requirements may lead to disciplinary action, up to and including expulsion or termination.~~

~~J. **Rights of the Complainant 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 campus support resources (such as counseling and mental health services and University health services).~~
- ~~4. To have an Advisor of the Complainant's choice accompany the Complainant to all interviews, meetings and proceedings throughout the Equity Resolution Process.~~
- ~~5. To refuse to have an allegation resolved through the Conflict Resolution Process.~~
- ~~6. To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.~~
- ~~7. To have Complaints heard in substantial accordance with these procedures.~~

8. ~~When the Complainant is not the reporting Party, The Complainant has full rights to participate in any Equity Resolution Process.~~
9. ~~To be informed in writing of the finding, rationale and remedial actions.~~
10. ~~To have an opportunity to appeal the findings.~~

~~K. **Rights of the Respondent Representative in the Equity Resolution Process.**~~

1. ~~To be treated with respect by University officials.~~
2. ~~To have access to campus support resources (such as counseling and mental health services and University health services), unless removed from campus pending the completion of the process.~~
3. ~~To have an Advisor of the Respondent's choice accompany the Respondent to all meetings and proceedings throughout the Equity Resolution Process.~~
4. ~~To refuse to have allegation resolved through the Conflict Resolution process.~~
5. ~~To have an opportunity to present a list of potential witnesses and provide evidence to the Investigator.~~
6. ~~To receive notice of the policies alleged to have been violated.~~
7. ~~To have Complaints heard in substantial accordance with these procedures.~~
8. ~~To be informed in writing of the finding, rationale and remedial actions.~~
9. ~~To have an opportunity to appeal the findings.~~

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

~~If Complainant is a student, the student Complainant may request that the Equity Officer or Title IX Coordinator assign a trained Advisor to provide support throughout the Equity Resolution Process. University trained Advisors are administrators, faculty, or staff at the University trained on the Equity Resolution Process. The Complainant may not require that the assigned Advisor have specific qualifications such as being an attorney.~~

~~M. **Investigation.** If, following the preliminary investigation, a Complainant or the University wants to pursue a formal investigation, then the Equity Officer or Title IX Coordinator (depending on the nature of the Complaint) will promptly appoint a trained Investigator or a team of trained Investigators to investigate. Within ten (10) business days after the commencement of the formal investigation, the Investigator(s) will provide the Parties with written notice identifying the nature of the allegation(s) against the Respondent and stating that an investigation has commenced, either: (1) in person, (2) by email only to the Party's University issued email account if the Party has consented in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official University records and emailed to the Party's University issued email account. If there is no local address on file, mail will be sent to the Party's permanent address. Notice is presumptively deemed delivered, when: 1) provided in person 2) emailed to the individual (when prior consent—whether electronically or in writing—has been given to receipt of all notifications by email) or 3) when mailed and emailed.~~

~~The Parties are allowed to have an Advisor of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings in which they participate. All investigations will be thorough, reliable and impartial. The Investigator(s) will make reasonable~~

efforts to include 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 or Title IX Coordinator (depending on the nature of the Complaint). This report may include the Investigator's observations regarding the credibility of the Complainant, the Respondent representative, and any witnesses interviewed.

The investigation of reported misconduct should be completed expeditiously, normally within thirty (30) business days of the Equity Officer or Title IX Coordinator's decision to accept a Complaint for formal investigation. Investigation of a Complaint may take longer based on the nature or circumstances of the Complaint. 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. 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 charges have been dismissed or reduced.

**N. Summary Resolution.** During or upon the completion of the investigation, the Equity Officer or Title IX Coordinator will review the investigation, which may include meeting with the Investigator(s). The investigative report is not provided to the parties during the Summary Resolution, but is provided to the Parties at the Administrative Resolution. Based on that review, the Equity Officer or Title IX Coordinator 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 or Title IX Coordinator determines that there is a sufficient basis to proceed with the Complaint, then the Equity Officer or the Title IX Coordinator will direct the process to continue. The Complaint will then be resolved through either: Conflict Resolution or Administrative Resolution. There is no right to request reconsideration or appeal the summary determination to continue the process.

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

The Complainant may request reconsideration of the summary determination ending the process by filing a written request with the Equity Resolution Appellate Officer within five (5) business days of notice of the summary determination. If the Equity Resolution Appellate Officer decides there is a sufficient basis to proceed with the Complaint, the Equity Resolution Appellate Officer will reverse the determination ending the process and direct the process to continue. The Complaint will then be resolved through either: Conflict Resolution or Administrative Resolution. This determination to continue the process lies in the sole discretion of the Equity Resolution Appellate Officer and such determination is final. Further appeal of such determination is not permitted.

If the Equity Resolution Appellate Officer agrees with the summary determination ending the process by the Equity Officer or Title IX Coordinator and that there is an insufficient basis to proceed

with the Complaint, then the process will end and the Complainant and the Respondent will be sent written notification of the determination. This determination to end the process lies in the sole discretion of the Equity Resolution Appellate Officer and such determination is final. Further appeal of such determination is not permitted.

~~O. **Conflict Resolution.** Either Party may request Conflict Resolution at any time during the Equity Resolution Process, including during the investigation. Upon receiving such a request, or of their own accord, the Equity Officer or Title IX Coordinator 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. Conflict Resolution is often used for less serious, yet inappropriate behaviors and is encouraged as an alternative to the Administrative Resolution process to resolve conflicts. 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.~~

~~In a Conflict Resolution meeting, a neutral, University-assigned facilitator will foster dialogue with the Parties to an effective resolution, if possible. The Complainant's and the Respondent's Advisor may attend the Conflict Resolution Meeting. The Equity Officer or Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the agreed upon resolution may result in further actions. In the event the Parties are unable to reach a mutually agreeable resolution, the investigation will be referred 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 Administration 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.~~

~~**P. Administrative Resolution.**~~

~~1. Procedural Details for Administrative Resolution.~~

~~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 maker (i.e. the Investigator, Equity Officer or Title IX Coordinator, or Designated Administrator) has 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) Questioning or evidence about the Complainant's prior sexual conduct is not permitted, though the decision maker may grant a limited exception in regards to the sexual history between the Parties, if deemed relevant.~~
  - ~~(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 the Complainant or the Respondent's character is of limited utility and shall not be admitted unless deemed relevant by the decision maker.~~~~

- ~~(3) Incidents or behaviors of the Respondent 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 the Respondent that shows a pattern may be considered, only if deemed relevant by the Equity Officer or Title IX Coordinator.~~
- ~~c. The Respondent and the Complainant may provide a list of questions for the Investigator(s), Equity Officer or Title IX Coordinator to ask the other Party. If those questions are deemed appropriate and relevant, they may be asked on behalf of the requesting Party.~~
- ~~d. The Administrative Resolution Process will normally be completed within sixty (60) business days of the Equity Officer or Title IX Coordinator's decision to accept the Complaint for formal investigation. Deviations from this timeframe will be promptly communicated to both Parties.~~
- ~~e. The Equity Officer or Title IX Coordinator may, in their discretion, grant reasonable extensions to the timeframes and limits provided.~~
- ~~2. Administrative Resolution: Resolution by the Equity Officer/Title IX Coordinator and Designated Administrator.~~

~~Administrative Resolution by the Equity Officer or Title IX Coordinator and Designated Administrator 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 joint finding by the Equity Officer or Title IX Coordinator and Designated Administrator on each of the alleged policy violations; and~~
- ~~c. A joint finding by the Equity Officer or Title IX Coordinator and Designated Administrator on remedial actions for findings of responsibility.~~

~~At least fourteen (14) business days prior to meeting with the Equity Officer or Title IX Coordinator and Designated Administrator or if no meeting is requested, at least fourteen (14) business days prior to the Equity Officer or Title IX Coordinator and Designated Administrator rendering a finding(s) (or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the Parties), the Equity Officer or Title IX Coordinator and Designated Administrator will send a letter (Notice of Administrative Resolution) to the Parties with the following information:~~

- ~~(a) A description of the alleged violation(s) and applicable policy or policies that are alleged to have been violated.~~
- ~~(b) Reference to or attachment of the applicable procedures.~~
- ~~(c) A copy of the investigative report.~~
- ~~(d) The option and deadline of ten (10) business days from the date of the notice to request a meeting with the Equity Officer or Title IX Coordinator and Designated Administrator.~~
- ~~(e) An indication that the Parties may have the assistance of an Advisor of their choosing at the meeting, though the Advisor's attendance at the meeting is the responsibility of the respective Parties.~~



The Investigator(s) will provide an investigative report to the Equity Officer or Title IX Coordinator and Designated Administrator and Parties.

The Equity Officer or Title IX Coordinator and Designated Administrator can, but are not required to, meet with and question the Investigator(s) and any identified witnesses. The Equity Officer or Title IX Coordinator and Designated Administrator may request that the Investigator conduct additional interviews and/or gather additional information. The Equity Officer Title IX Coordinator and Designated Administrator will attempt to meet separately with the Complainant and the Respondent to review the alleged policy violations and the investigative report.

The Equity Officer or Title IX Coordinator and Designated Administrator will render a joint finding utilizing the preponderance of the evidence standard. The Equity Officer or Title IX Coordinator and Designated Administrator will also render a finding on appropriate remedial actions, if applicable. The findings are subject to appeal.

The Equity Officer or Title IX Coordinator will inform the Respondent and the Complainant of the joint finding on each of the alleged policy violations and the joint finding on remedial actions for findings of responsibility, if applicable, within five (5) business days of the findings, without significant time delay between notifications. Notification will be made in writing and will be delivered either: (1) in person, (2) by email only to the Party's University issued email account if the Party has consented in writing to receipt of all notifications by email; or (3) mailed to the mailing address of the respective Party as indicated in the official University records and emailed to the Party's University issued email account. If there is no local address on file, mail will be sent to the Party's permanent address. Notice is presumptively deemed delivered, when: 1) provided in person 2) emailed to the individual (when prior consent – whether electronically or in writing – has been given to receipt of all notifications by email) or 3) when mailed and emailed.

#### **P. Remedial Actions.**

1. Factors Considered When Finding Remedial Actions. If the Respondent is found responsible for a violation of the University's Anti-Discrimination Policies, the Equity Officer or Title IX Coordinator and Designated Administrator will determine remedial actions.

Factors considered when finding a remedial action may include:

- a. The nature, severity of, and circumstances surrounding the violation;
- b. The need for remedial actions to bring an end to the discrimination, harassment and/or retaliation;
- c. The need for remedial actions to prevent the future recurrence of discrimination, harassment and/or retaliation; and
- d. The need to remedy the effects of the discrimination, harassment and/or retaliation on the Complainant and the University community.
- e. Any other information deemed relevant by the Equity Officer or Title IX Coordinator and Designated Administrator.

2. 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. Such remedial actions may 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.~~

#### **~~Q. Appeal.~~**

1. ~~**Grounds for Appeal.** Both the Complainant and the Respondent are allowed to appeal the findings in the Administrative Resolution Process. Appeals are limited to the following:~~

- ~~a. A procedural error occurred that significantly impacted the outcome of the Administrative Resolution Process (e.g. substantiated bias, material deviation from established procedures, etc.).~~
- ~~b. To consider new evidence, unavailable during the original Administrative Resolution Process or investigation that could substantially impact the original finding or remedial actions.~~
- ~~c. The remedial actions 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 submit a request for appeal to the Equity Resolution Appellate Officer. All requests for appeal must be submitted in writing to the Equity Resolution Appellate Officer within three (3) business days of the delivery of the findings. When any Party requests an appeal, the other Party (Parties) will be notified and receive a copy of the request for appeal.~~

3. ~~**Response to Request for Appeal.** Within three (3) business days of the delivery of the notice and copy of the request for appeal, the non-appealing Party (Parties) may file a response to the request for appeal. The 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). The Equity Resolution Appellate Officer will review the request for appeal to determine whether:~~

- ~~a. The request is timely;~~
- ~~b. The appeal is on the basis of any of the three (3) 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 remedial actions.~~

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 fourteen (14) business days from receipt of the request for appeal. If no written decision is provided to the Parties within fourteen (14) business days from receipt of the request, the appeal will be deemed accepted.

5. **Review of the Appeal.** If all three (3) requirements for appeal listed 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 Administrative Resolution Process, 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. Remedial actions are implemented immediately unless the Equity Resolution Appellate Officer stays their implementation pending the outcome of the appeal.
  - c. The Equity Resolution Appellate Officer will normally render a written decision on the appeal to all Parties within ten (10) business days from accepting the request for appeal. 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.
- R. **Records.** In implementing this policy, records of all Complaints and resolutions will be kept by the Equity Officer or Title IX Coordinator (depending on the nature of the Complaint). The "Record of the Case in the Section 600.060 Process" will include, if applicable, Letter(s) of notice, exhibits; the finding on each of the alleged policy violations and remedial actions by the Equity Officer or Title IX Coordinator and Designated Administrator; and the decision on appeal. The Record of the Case in the Section 600.060 Process will be kept for a minimum of seven (7) years following final resolution.
- S. **Retaliation.** Retaliation is any adverse action taken against a person because of that person's participation in protected activity. The University strictly prohibits retaliation against any person for making any good faith report of discrimination, harassment, or sexual misconduct or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of discrimination, harassment, or sexual misconduct. 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 or Title IX Coordinator. The University will promptly investigate all Complaints of retaliation.

**600.060 Equity Resolution Process for Resolving Complaints of Discrimination and Harassment against the University of Missouri**

Created 2-9-17 with effective date of 3-1-17; Deleted in entirety 7-28-20 with an effective date of 8-14-20.

## **GENERAL BUSINESS (continued)**

## UM SYSTEM ORGANIZATION STRUCTURE EVALUATION SUMMARY REPORT

There are no materials for this information item.

