

PROCEDURES FOR HANDLING COMPLAINTS OF HARASSMENT AND DISCRIMINATION

- I. **Applicability:** These procedures apply to all complaints of harassment and discrimination which involve all UMD students and employees.
 - A. Claimants and respondents may also elect to use the grievance procedure appropriate to their job category or bargaining unit. Some contracts provide individuals the option to pursue bargaining unit procedures, or UMD Office of Equal Opportunity (OEO) procedures, but not both.
 - B. Investigations for union members are the same as all others except to the extent that those differences are addressed by contract.
- II. **The Office of Equal Opportunity:** This office shall assist in the implementation of the University's Policy and Procedures on Harassment and Discrimination by:
 - A. Serving as a primary contact for persons with questions or concerns about harassment and discrimination.
 - B. Disseminating information on policies and procedures for dealing with harassment and discrimination.
 - C. Providing investigation of complaints, resources, and referral as appropriate.
 - D. Serving in a consultative capacity to those dealing with issues of harassment and discrimination within their own units.
- III. **Complaints:** A complaint may indicate that there has been a violation of the University's Policy on Harassment and Discrimination (Statements regarding University Policy are intended to include recognized collective bargaining agreements).
 - A. Complaints of harassment and discrimination may be brought by any member of the University community.
 - B. A complaint may be made to the Office of Equal Opportunity, the supervisor, the student conduct code coordinator, or other campus administrator. That person may address the issue and take appropriate action, but regardless of whether s/he takes action, shall notify the OEO immediately.
 - C. If a conflict of interest should arise, the Chancellor may choose to refer the matter to another party for investigation.
- IV. **Investigations:** When appropriate OEO shall conduct investigation of complaints of harassment and discrimination. In carrying out the investigation, OEO shall use procedures that accord due process to the extent permitted by law.
 - A. Complaint investigations shall include at least the following steps:
 1. OEO shall provide the respondent with a written charge which includes a summary of the allegations that have been made and information concerning their rights to representation.
 2. The respondent will have 14 calendar days to respond to the charge. Extensions will be granted by mutual agreement among the respondent, the complainant and the OEO. The respondent may

respond to the complaint in writing or in person, unless respondent chooses an alternative under a collective bargaining agreement.

3. Upon receipt of the response, OEO may further investigate the complaint and/or attempt to resolve the matter between the parties.
4. If the respondent fails to respond, OEO shall determine whether to conduct further investigation. Failure to respond will be reported to the appropriate Vice Chancellor as possible failure to comply with a UMD policy or procedure.
5. Should any meetings be held between the OEO Officer and the respondent during the investigation of this complaint, the respondent may have a representative present. Should any meetings be held between the OEO Officer and the claimant during the investigation of this complaint, the claimant may have a representative present.

B. OEO may seek the advice of counsel in the Office of the General Counsel who may advise on substantive or procedural issues.

V. Following an investigation

A. Following an investigation of a complaint, OEO shall:

1. Dismiss the complaint; or
2. Assist the parties in reaching an agreement resolving the differences between them; or
3. In the event that the complaint is supported, submit a written report to respondent and appropriate Vice Chancellor or designee describing the allegations and findings of the investigation. This report will include a finding as to whether there has been a violation of the Harassment and Discrimination Policy. The Vice Chancellor or appropriate administrator may consult with OEO regarding appropriate remedial action or discipline.

B. After the appeals process, if any, and upon receipt of OEO's findings and recommendation, the appropriate Vice Chancellor or administrator will determine possible remedial action, which may include discipline, recognizing bargaining unit requirements.

C. If the complaint is dismissed and the claimant does not appeal the dismissal or if the parties sign a written statement of agreement, the case shall be closed. The material retained shall include a copy of the written complaint, a copy of the respondent's reply, a statement of OEO's recommendation, a statement of the action of the appropriate Vice Chancellor/administrator, a copy of any agreements, and other documents or notes as deemed appropriate by the OEO director. These data shall be kept in OEO as permitted by law.

D. Any notice of the disciplinary action taken under paragraph B. will be placed in the respondent's official personnel file as per University procedures or appropriate collective bargaining agreements.

E. The claimant may appeal the action of a Vice Chancellor regarding his or her complaint to the UMD Harassment and Discrimination Appeals Panel.

VI. The UMD Harassment and Discrimination Appeals Panel

- A. Purpose: The Panel shall hear appeals from claimants whose complaints have been dismissed by OEO or a Vice Chancellor, or respondents who are otherwise dissatisfied with the outcome of an investigation. The Panel shall conduct hearings on these appeals when directed to do so by the appropriate Vice Chancellor.
- B. Membership: The Panel shall consist of three members: one nominated by the appellant, one nominated by the administration and a third party mutually agreed upon by both parties.
- C. Participation: A Panel member of any class (faculty, academic professional/administrative, staff) may participate in any hearing or appeal without regard to class to which the respondent or claimant belongs, unless involved in the specific case or a potential conflict of interest exists as determined by the appropriate Vice Chancellor.
- D. Process: If there is a finding of harassment and/or discrimination the respondent may appeal that finding to the Harassment and Discrimination Appeals Panel. If the finding is affirmed, that finding would be forwarded to the appropriate administrator and the administrator would determine the possible remedial actions, including discipline.
- E. Like an appeals court, the appeals panel is charged with reviewing a) procedure and b) findings based on the investigation. This is not a fact-finding body. The panel will be asked to review the procedures followed in this investigation, including the conclusion reached at the end of the investigation. This appeals process comes before a determination of discipline, therefore the panel will not review discipline. If discipline is proposed for the employee as a result of the investigation, at that point, the employee may file a grievance under an applicable collective bargaining agreement, or the University Grievance Procedure regarding discipline.

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