

Discrimination/Harassment Complaint
Investigation Procedure for
Complaints against Faculty, Staff, or
Visitors



DISCRIMINATION/HARASSMENT COMPLAINT INVESTIGATION PROCEDURE FOR COMPLAINTS AGAINST FACULTY, STAFF OR VISITORS

UNIVERSITY POLICY STATEMENT

It is the policy of Eastern Michigan University (EMU), in recognition of the essential rights of all employees and applicants as individuals, to recruit and hire in all job classifications without regard to race, color, religion, creed, sex, age, national origin, ancestry, marital status, veterans status or physical or mental disability as provided for and to the extent required by state and federal statutes. Further, it is the policy of the University to take affirmative action to ensure that all personnel actions such as rate of compensation, promotion, retirement, transfers, fringe benefits, layoffs, return from layoff, University training programs, social and recreational programs are administered without regard to race, color, religion, creed, sex, age, national origin, ancestry, marital status, veterans status, Vietnam-era veterans status, non-relevant mental or physical disability or other protected status, as provided for and to the extent required by state and federal statutes. Finally, it is the policy of the University to recruit, hire and take other personnel actions in all job classifications without regard to sexual orientation, gender identity or expression. In this regard, EMU Policy specifically prohibits discrimination as to any characteristic protected by law (See EMU Board Policies 3.1.2, 3.1.3 and 3.1.8).

COMPLAINTS OF DISCRIMINATION OR HARASSMENT

EMU takes allegations of discrimination and harassment seriously and is committed to providing an environment free of unlawful discrimination and harassment. University Human Resources (UHR) has prepared the following procedures as guidelines to be employed when complaints of discrimination or harassment are filed against faculty, staff, or contractor visitors. These procedures apply to complaints of all applicable federal and state equal opportunity and discrimination violation allegations raised by employees, students, or third parties against a faculty, staff member, or third party, such as a vendor or visitor to EMU. UHR may deviate from these procedures as necessary to achieve the goals of prompt, thorough, and effective resolution of the matter at hand.

DEFINITIONS

Discrimination is the unequal treatment of a person based on that person's protected characteristic. In accordance with Titles VI and VII of the Civil Rights Act of 1964 and other related laws and regulations, University policy prohibits discrimination in any term or condition of employment, academic program, student service, activity, benefit, or opportunity provided by EMU.

Title IX discrimination includes sexual harassment, sexual assault, domestic violence, dating violence, and stalking, all of which are prohibited by Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 ("Title IX") and the Eastern Michigan Sexual Misconduct and Sex-based Discrimination Policy (3.7.7). The Eastern Michigan Sexual Misconduct and Sex-based Discrimination Policy also specifies "other prohibited conduct" that includes sexual exploitation and gender-based discrimination. Additional resources related to Title IX may be found on the [University's Title IX Website](#). (See also Board Policies 3.07.07 and 3.01.08).

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REPORTING A COMPLAINT

Overall, the University's response to an allegation of violation of law or policy will be determined by the nature of the alleged violation and the totality of information available at the time that a complaint is filed. Requests from complainants to "just record my concerns" or "not take any action at this time" cannot be honored where the allegations rise to the level of a potential violation of University policies related to discrimination or harassment. If at any time the University feels an investigation is necessary pursuant to applicable policies, laws or regulations, an investigation may proceed without the support of the potential complainant. Where allegations in the complaint describe a situation that may create a present danger to health and safety on campus, the University will take appropriate actions to safeguard the campus community while respecting the rights of any victim(s). *Please note that, as it relates to complaints that fall under Title IX, additional procedures as defined by the University's Title IX Office may supplement the procedures set forth in this document.*

TIME LIMIT FOR FILING COMPLAINT:

Complaints must be filed within 60 University days of the most recent conduct alleged to have violated the University's policies on discrimination and/or harassment. University days are defined as normal operating days for the University, or for instructional staff, days that the University is in an academic session per the approved academic calendar. The University reserves the right, in its sole discretion, to investigate and act on complaints involving incidents that have occurred beyond the time limit when:

- A) There is an allegation of a pattern or course of conduct that would violate University policy; or
- B) Where exceptional circumstances, not occasioned by the complainant, have contributed the delay.

Supervisors who learn of incidents that may be a violation of the University's prohibition against discrimination or harassment are expected to promptly report the matter to UHR.

SUPPORT PERSONS

An individual who is a Complainant or Respondent may have another member of the University community present during an investigatory interview as a support person. That support person may not be an attorney and may be present in support of the Complainant or Respondent, but may not participate in the investigative process. Faculty or staff who are members of a union will be informed that they may have a union representative as a support person in any investigative meeting. Individuals who are witnesses to the behavior in question may not serve as support persons. All are expected to maintain confidentiality regarding all exchanges of information during the investigation.

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CONFIDENTIALITY

The University will make every reasonable effort to maintain confidentiality and privacy of all parties involved to the extent allowable and in accordance with state and federal laws and EMU policy. However, in some circumstances senior University officials may need to be apprised of these matters. Any disclosures will be limited to a need-to-know basis, and the information provided will be limited to that which is required to ensure the integrity of University operations and management.

Timely cooperation is expected of all involved parties throughout the investigative process. All parties (complainant, respondent, witnesses, support persons) are expected to be respectful and confidential during the process of an investigation.

INVESTIGATIVE PROCESS FOR COMPLAINTS MANAGED BY UHR

Pre-Investigation Process

During the pre-investigation evaluation period, UHR will determine if:

- the complaint is timely;
- the situation described in the complaint arose in the course of a University program or activity;
- the complaint is directed against a University employee, student, administrative unit (e.g. Admissions Office), or visitor; and
- if factually supported, the alleged behavior could constitute discrimination or retaliation in violation of University policy.

If the complaint does not meet the above criteria or establish a violation of policy or procedure enforced by UHR, UHR may close the file. However, the Respondent may still be subject to University Action if the alleged behavior violates another University policy or is otherwise inappropriate.

Informal Resolution Process

UHR will have 21 days from receipt of a complaint to evaluate the complaint, contact the respondent and complainant and attempt to resolve the complaint if informal resolution is possible. The informal resolution process is an abbreviated process for less complicated matters that can be quickly resolved to the satisfaction of both parties. An example of such a matter might be a single comment that the complainant deemed objectionable and either a clarification or an apology would resolve the matter. The informal process is completely voluntary, and both parties must agree to it. A complainant has the right in every case to insist on a formal investigation and findings. The University recognizes that there may be certain complaints, for example those involving sexual assault, where the informal process will never be appropriate.

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Formal Investigation

If UHR determines via the pre-investigation that the issuance of a formal complaint and investigation is appropriate, UHR will determine the most effective method of investigating the allegations raised by the complainant. This will most likely involve conducting a thorough fact-finding investigation, which will include separate meetings with the Complainant, Respondent, and witnesses with first-hand knowledge of the situation; and reviewing and analyzing relevant records as they relate to the allegations. The University is committed to a timely, complete, and objective investigatory process. Parties to the investigation will be provided notice of the complaint and the allegations contained within it.

The complainant and respondent(s) will be provided an opportunity to discuss the allegations made in the complaint with the investigator as part of the formal fact-finding process. The Complainant, Respondent, and witnesses will have the right to present evidence (including documents and names of witnesses) to the investigator. It will be within the investigator's discretion to determine the weight of the evidence and whether it is necessary or appropriate to talk to all persons listed. All parties and witnesses will be treated with respect and afforded appropriate due process throughout the investigation.

Participants in the process may be requested to document their statements. If a person declines to provide a written statement or sign a statement taken by the investigator that documents their account of the incident (s), UHR will complete the investigation based upon available information. Upon completion of the investigation, the Complainant and the Respondent will be notified in writing of the outcome.

The University may take interim measures, if necessary, to prevent the Complainant from being subjected to discrimination or harassment, including that which may be in retaliation for filing the complaint, during and after the investigative process. The University will take steps to ensure that any interim measures taken do not adversely affect the Complainant.

How and Where to Lodge a Complaint:

A person wishing to file a complaint should complete and submit a complaint via the [Online Complaint Submission Form](#). If assistance is needed, a complainant may contact their Human Resources Business Partner or the Title IX Office (if the complaint relates to gender, sex, or sexual harassment).

Complaints should include the following information:

- the name of the individual(s) against whom the complaint is made
- the nature of the alleged offense (discrimination based on a protected criteria i.e. sex-based, race, nationality, disability, etc)
- the specifics of the offending incident (s) with precise details (what happened, who was present, when, where, any reasons why they believe the action was taken)
- the date and certification of the person making the complaint.

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Complaints managed by UHR will generally be coordinated by:

Brett I. Last

Associate Vice President and Chief Human Resources Officer 140McKenny

Ypsilanti, MI 48197

734.487.3430

blast@emich.edu

The Title IX Coordinator will be informed of all complaints alleging sexual misconduct and sex-based discrimination. The contact information for the Title IX Coordinator is:

Anika Awai-Williams

100c Boone Hall

734.487.2202

aawaiwil@emich.edu

[Title IX Online Reporting Form](#)

The Associate Vice President and Chief Human Resources Officer or the Title IX Coordinator may delegate investigation and processing of a Complaint to their assignee(s) as appropriate.

The contact information and a description of resources and services related to diversity and the handling complaints of discrimination, sexual harassment and sexual assault can be found via the [Human Resources website](#).

COMPLAINTS INVOLVING STUDENTS

Allegations of discrimination or policy violation involving student to student interactions will be referred to the [Title IX Coordinator](#). Allegations involving university employees, applicants, or visitors will be managed by UHR.

EVIDENTIARY STANDARD

The investigator shall determine whether a violation of University policy occurred utilizing a "preponderance of evidence" standard. A finding of discrimination will be based upon whether it is more likely than not that the discrimination occurred in violation of University policy.

INVESTIGATIVE TIME FRAMES

The University takes complaints of discrimination seriously and will take all reasonable efforts to complete investigations as expeditiously as possible. In many cases this means that investigations will be completed within 90 days from initiation. However, the complexity of an investigation may necessitate a longer timeline. Both parties will receive notification of the outcome within seven days of the completion of the final report.

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PROHIBITION AGAINST RETALIATION

Retaliation against persons who participate in this complaint procedure, or who file a complaint of discrimination is prohibited by federal and state law, including Titles VI and VII of the 1964 Civil Rights Act, Title IX of the Educational Amendments of 1972, and Michigan's Elliott-Larsen Civil Rights Act and is a violation of the University's non-discrimination policy. Retaliation exists when action is taken against a participant which affects their employment, academic, or business status which is motivated in whole or in part their participation in the process.

Retaliation may be found even where the underlying complaint is found to have no merit. Persons who feel that they have been subject to retaliation may file a complaint under this procedure.

CORRECTIVE ACTION

If a final report finds that discrimination or harassment occurred in violation of University policy, the University will determine appropriate corrective action. In such instances, the University will take steps to prevent reoccurrence of any violations with remedies including discipline up to and including discharge for the Respondent. Where appropriate, the University will implement remedial measures.

Guests and other persons who violate the policy are subject to corrective action, which may include removal from campus and/or termination of contractual agreements. The University may also decide to act if a Respondent is found to have engaged in inappropriate workplace behavior. Disciplinary action will be determined in accordance with Human Resources practice and any applicable collective bargaining agreement.

FILING A FALSE COMPLAINT.

Any individual who knowingly files a false complaint under this policy, or who knowingly provides false information to or intentionally misleads University officials who are investigating a complaint, may be subject to disciplinary and/or corrective action.