

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



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## 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. The University recruits, hires, and takes other personnel actions in all job classifications without regard to sexual orientation, gender identity or expression. The University prohibits discrimination that inhibits a person's ability to participate in or benefit from the University's educational programs or activities based on race, color, or national origin. 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/vendor 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. Discrimination on the basis of race, color, and national origin is prohibited by [Title VI](#) of the Civil Rights Act of 1964; sex discrimination is prohibited by [Title IX](#) of the Education Amendments of 1972; discrimination on the basis of disability is prohibited by [Section 504](#) of the Rehabilitation Act of 1973; and age discrimination is prohibited by the [Age Discrimination Act](#) of 1975. In accordance with the aforementioned 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.

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Discrimination as it relates to employment occurs when an employee is subjected to unwelcome behaviors pertaining to a protected classification that are so pervasive or severe that they create a hostile or offensive work environment or where enduring these behaviors become a term or condition of employment. This is known as hostile work environment harassment. Per the Equal Employment Opportunity Commission, petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. Therefore, to constitute a violation of the University's Civil Rights Policy, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. There may be conduct that does not violate the Civil Rights Policy, but is inconsistent with University values, and those will be assessed/addressed as such by management and Human Resources. There are incidents where a single incident may rise to the level of seriousness such that discrimination may occur e.g. when racial slurs are used, a physical assault is involved, or offensive symbolism is displayed.

A reasonable person is viewed and defined from the perspective of whether an individual in the same or similar circumstances would find the challenged conduct sufficiently severe or pervasive to create an intimidating, hostile or abusive work environment.

Additionally, an employee may experience workplace discrimination when they suffer an adverse employment action (such as termination or demotion) as a result of their membership in a protected class.

Discrimination that limits a person's ability to participate in or benefit from the University's educational programs or activities may occur when an individual is subjected to unwelcome conduct that creates a hostile work environment based on race, color, or national origin. The conduct at issue must be subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from such educational programs or activities. The behaviors complained of will be evaluated based on the totality of the circumstances, and from the perspective of the student who is allegedly being harassed and from a reasonable person in that student's position considering all of the circumstances. Discrimination by an agent of the University towards a student may also occur where, based on direct evidence, a student is treated differently based upon actual or perceived race, color, or national origin. In the absence of direct evidence, factors such as comparative treatment, the existence or non-existence of a legitimate/non discriminatory basis for the treatment, and whether or not there is evidence of pretext are considered.

Discrimination based upon disability requires that the individual have a disability, or be regarded as having a disability. An individual may be discriminated against based upon disability in an employment practice or educational program if they are denied a reasonable accommodation for their disability unless such reasonable accommodation would create an undue hardship for EMU. Individuals with disabilities may also be protected pursuant to the broader definition of discrimination described above. Employees should consult the University's [Americans with Disabilities Act Policy and Procedures](#) for detailed definitions of selected terms such as "Reasonable Accommodation" and "Undue Hardship". These definitions are incorporated here by reference.

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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).

## 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. University personnel are expected and required to participate in any and all aspects of the investigative process in good faith. 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. A support person may

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be present in support of the Complainant or Respondent, but they may not participate in the investigative process nor may they be an attorney as their role is not that of an advocate. 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.

## PRIVACY

The University will make every reasonable effort to maintain 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 (investigator, Complainant, Respondent, witnesses, support persons) are expected to be respectful and must maintain privacy during the process of an investigation.

## INVESTIGATIVE PROCESS FOR COMPLAINTS MANAGED BY UHR

### Intake & Pre-Investigation Process

During the pre-investigation intake and evaluation period, UHR will determine if, based upon the allegations made by the Complainant:

- 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 University employee(s), student(s), or visitor(s); and
- the alleged behavior could constitute discrimination or retaliation, as defined in these procedures and as further described in applicable University policies.

If the complaint does not meet the above criteria or otherwise establish a violation of policy or procedure enforced by UHR, UHR may close the file. However, Human Resources will follow up as appropriate on any action items as, in some circumstances, even if a policy violation would not exist based on the facts alleged, there are opportunities for conversation, discussion, and interpersonal reconciliation.

If the complaint does meet the above criteria (meaning that the complaint is timely, and the allegations, if true, would establish a violation of a policy or procedure enforced by UHR), UHR will follow the procedures further described below.

### Informal Resolution Process

UHR will make all reasonable efforts within 21 University days from receipt of a complaint to evaluate the complaint, contact the respondent and complainant and attempt to resolve the

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complaint if informal resolution appears to be appropriate based on the nature of the complaint and the facts alleged. 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. If a formal complaint is supported by the intake/pre-investigation process, the Complainant has the right to insist on a formal investigation and findings. The University recognizes that there may be certain scenarios such as where an individual physically assaults another individual based on a protected characteristic where the informal process will never be appropriate.

### 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 continued conduct that could be violative of the University's Civil Rights Policy, including behaviors that 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

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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.

Complaints managed by UHR will generally be coordinated by:

Brett I. Last  
Associate Vice President and Chief Human Resources Officer  
301J Pierce Hall  
Ypsilanti, MI 48197  
734.487.3430  
[blast@emich.edu](mailto: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:

Matthew Gregory  
Sexual Misconduct Prevention &  
Response Office  
250 Student Center  
734.487.3126  
[mgregory@emich.edu](mailto:mgregory@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 if they relate to the Sexual Misconduct & Sex-Based Discrimination Policy. Allegations involving university employees, applicants, or visitors will be managed by UHR. With the exception of Title IX matters, student allegations of discrimination as to other students/groups of students under Title VI or other civil rights related

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laws/regulations will be referred to the Dean of Students.

#### 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.

#### 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 by 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



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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.