

## The University of Mississippi

### **Discrimination Complaints**

**Summary/Purpose:** The purpose of this policy is to provide procedure for filing complaints related to discrimination on the basis of race, color, sex, religion, national origin, age, disability, veteran status, sexual orientation, or genetic information. **Please note that the University has a separate policy (Policy Number DSA.DS.200.015) for dealing with sexual misconduct (including sexual harassment and sexual assault) when the individual accused of misconduct is a student.**

Employees, students, applicants for admission or employment, or other participants in University of Mississippi programs or activities, who believe that they have been discriminated against on the basis of race, color, sex (including sexual harassment), religion, national origin, age, disability, veteran status, sexual orientation or genetic information are entitled to seek relief through the following procedure.

**University policy prohibits retaliatory action being taken against any complainant or any person acting in good faith who is assisting in the investigation of a complaint. Persons who knowingly bring false allegations may be subjected to immediate disciplinary action.**

In the event a complaint cannot be resolved by the parties on an informal basis, the complaint should be submitted in writing to the Executive Director of Equal Opportunity and Regulatory Compliance, 217 Martindale. Complaints must be submitted within 180 days of the alleged discriminatory action (including sexual harassment). In certain circumstances, at the discretion of the Executive Director of Equal Opportunity and Regulatory Compliance, complaints that are not reduced to writing or that fall outside the specified time limit may be investigated informally. The Executive Director of Equal Opportunity and Regulatory Compliance will investigate complaints pursuant to the following guidelines:

- The Executive Director of Equal Opportunity and Regulatory Compliance, or designee, will contact the complainant to ascertain whether the complainant would prefer to resolve the matter informally through mediation.

Informal Resolution through Mediation: Mediation is an informal process in which a third neutral party assists the complainant and the respondent attempt to voluntarily and jointly reconcile their differences. Mediation is an alternative to the often lengthy investigative process traditionally used to determine the merit of charges of discrimination. The purpose of the mediation is to help the parties reach a fair and expeditious resolution of the complaint prior to a formal investigation. Most mediations are completed in only one session. Discussions that occur during the mediation are confidential. The mediator cannot impose a decision on the parties. Instead the mediator gives the parties the opportunity to discuss the issues raised in the complaint, clear up misunderstandings, and find areas of agreement. If the complaint is resolved during the mediation process, a written mediation agreement will be prepared for the signature of the two parties. Once the complainant and the respondent have signed the mediation agreement, each party to the mediation will be provided a copy of the signed mediation agreement. The complaint file will be closed and the terms of the agreement will end

further processing of the complaint by the university.

Mediation focuses on resolution of the dispute between the complainant and respondent by addressing the interests of both parties. It is not a forum for reaching a determination as to whether discrimination occurred. Therefore, any agreement reached during mediation does not constitute a determination that discrimination has/has not occurred.

While generally the mediation session is attended by the parties alone, the parties may bring a representative with them if they wish. The Representative may not be a potential witness and may not address the opposing party or the mediator during the session.

Participation in the mediation program is completely voluntary. The Executive Director of Equal Opportunity/Regulatory Compliance, or designee will contact the complainant to see if he/she wishes to undergo mediation. If the complainant indicates that he/she wished to undergo mediation, the Executive Director, or designee will contact the respondent to see if the respondent is willing to participate in mediation. If both parties agree to participate in mediation, the mediation session will be scheduled.

The complainant should understand that even if the complainant wishes to try to resolve the issues through mediation, the respondent may not wish to undergo mediation. The complainant and the respondent will each be asked to sign an Agreement to Mediate. Should the respondent not have signed the Agreement to Mediate within 5 days of being notified or he/she advises the Executive Director, or designee that he/she is not willing to participate in a mediation, the complainant and the respondent will be notified that a formal investigation conducted by the Executive Director, or designee will be initiated.

Formal Investigation: If the complainant does not elect to proceed via informal resolution through mediation or the attempt at mediation does not successfully result in a signed mediation agreement, the Executive Director or designee will conduct a formal investigation. At a minimum, this formal investigation will include the following, as well as other actions as is deemed appropriate: interviewing the complainant, the respondent, and witnesses who may have relevant information; submitting questions to or taking statements from parties or witnesses; reviewing documents, and if the circumstances are warranted, the Executive Director may choose to appoint an investigative hearing panel. If a formal investigative committee is formed, it will consist of at least three persons other than the Executive Director, or designee. If the complainant is a faculty member, at least one member of the panel shall be a member of the faculty. If the complainant is a staff member, at least one member of the panel shall be a staff employee. No member of the hearing panel should be from the same department, school or college of the University as the complainant or respondent. The Executive Director, or designee, will be the non-voting chair of the panel. A court reporter may be retained to record the proceedings at the discretion of the Executive Director, or designee. The panel members will conclude the investigation and make a decision in a timely manner.

- Upon the conclusion of the investigation and/or hearing, the Executive Director, or designee, in the instance of complaints against faculty or students, will present findings and

recommendations to the appropriate Dean for input concerning disciplinary action. The employee's Department Chair or other appropriate person(s) may be consulted and may be a part of the decision-making process if requested by the Dean. The complainant will be informed of the decision in a timely manner by Executive Director of Equal Opportunity and Regulatory Compliance. The person against whom the complaint is made will be notified by the Dean, or the Executive Director of Equal Opportunity and Regulatory Compliance, or designee, of the findings and any disciplinary action to be taken.

- The Executive Director of Equal Opportunity and Regulatory Compliance, or designee, in the instance of non-faculty complaints, will present findings and recommendations to the appropriate Vice Chancellor. The department head responsible for the division of the involved employee(s) may be consulted concerning disciplinary action if requested by the Vice Chancellor. The complainant will be informed of the decision in a timely manner by the Office of Equal Opportunity and Regulatory Compliance. The person against whom the complaint is made will be notified by the Vice Chancellor, or designee, of the findings and any disciplinary action to be taken.

- The complainant may appeal the decision by submitting an appeal, in writing, to the Provost. Such an appeal must be made within five (5) days of the receipt of the decision from the appropriate Academic Dean or Administrative Vice Chancellor. The Provost's decision is final.