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INSTITUTIONAL OPPORTUNITY & ACCESS POLICY

Discrimination Complaint Resolution Process

PURPOSE:

To describe the process for resolution of complaints of discrimination on the basis of race (including racial harassment), religion, color, sex (including pregnancy, sexual harassment, and sexual violence), disability, national origin, ancestry, age, status as a veteran, sexual orientation, marital status, parental status, gender identity and gender expression.

APPLIES TO:

All faculty, staff, and students of the University of Kansas

CAMPUS:

Lawrence, Edwards, Parsons, Juniper Gardens, Yoder, Medical Center, Kansas City, Wichita, Salina, Topeka

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POLICY STATEMENT:

In accordance with Titles VI and VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, Executive Order 11246, Title IX of the Education Amendments of 1972, Section 503 and 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act, the Vietnam Veterans Readjustment Assistance Act of 1974, the Jobs for Veterans Act of 2002, the Kansas Acts Against Discrimination and all other applicable civil rights and nondiscrimination statutes, the University of Kansas prohibits discrimination. Specifically, the University of Kansas prohibits discrimination on the basis of race, color, ethnicity, religion, sex, national origin, age, ancestry, disability, status as a veteran, sexual orientation, marital status, parental status, gender identity, gender expression and genetic information in the University's programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies: Executive Director of the Office of Institutional Opportunity and Access, IOA@ku.edu, 1246 W. Campus Road, Room 153A, Lawrence, KS, 66045, (785)864-6414, 711 TTY.

The University of Kansas, Lawrence, is committed to the full participation of previously excluded or neglected classes of people. Thus, it is also the policy of the university to prohibit discrimination on the basis of sexual orientation, marital status, parental status, gender identity, and gender expression.

Scope of Policy

The university's nondiscrimination policy extends to employment practices, conditions of employment, personnel actions and all other educational programs and activities of the university and its affiliates. It also extends to any retaliatory actions by an individual and his/her associates that may arise as a result of a discrimination complaint. Leaders in the university community continuously examine all areas of the institution, make policy decisions, and implement strategies to eliminate and prevent discrimination wherever necessary.

Discrimination Complaint Resolution Process

The University of Kansas is committed to resolving discrimination complaints in a timely and effective manner and providing prompt corrective action if discrimination is believed to have occurred. The discrimination complaint resolution process is intended to provide effective resolution for complaints of discrimination on the basis of race (including racial harassment), religion, color, sex (including pregnancy, sexual harassment, and sexual violence), disability, national origin, ancestry, age, status as a veteran, sexual orientation, marital status, parental status, gender identity and gender expression. Affected persons, including students, faculty, staff, community members or others involved in university events or programs, may utilize the process to address complaints of discrimination related to University hiring and selection procedures, employment practices, conditions of employment, personnel actions, or University educational programs and activities.

Who may utilize the University Discrimination Complaint Procedures?

Any person claiming to be aggrieved by a prohibited discriminatory practice at the University may contact the **Office of Institutional Opportunity and Access. Location: Room 153 Carruth O'Leary Hall, 1246**

Campus Rd., Lawrence, KS 66045-7521; Telephone: (785)864-6414; 711 TTY; E-mail: ioa@ku.edu.

Individuals who may use this procedure include, but are not limited to: individuals applying for enrollment or employment with the university; students; faculty, including those with visiting appointments; teaching or research assistants; postdoctoral research associates and fellows; university support staff and other unclassified employees; university administrators; and other persons receiving university services or participating in university programs. A person in the university community may ask that the Office of Institutional Opportunity and Access initiate an investigation of a specific matter. The Office of Institutional Opportunity and Access may also initiate an investigation when it has reason to believe that discriminatory or retaliatory action is occurring.

Complaint Resolution Actions and Procedures

The process for resolving discrimination complaints may include some or all of the following actions: informal inquiry and discussion, mediation (except in cases of sexual harassment), disciplinary action, or other appropriate action. If the subject matter or issue of the complaint does not fall within the jurisdiction of this policy, the Office of Institutional Opportunity and Access staff will advise the complainant of other available procedures.

In many cases, individuals will take appropriate corrective action when they are made aware of how their actions or behaviors are being perceived. If the complainant is comfortable doing so, he or she may bring the concerns to the attention of the person responsible for the behavior or action. Complainants who choose not to address the discrimination directly on their own or through other informal processes may seek the assistance of the **Office of Institutional Opportunity and Access. Location: Room 153 Carruth O'Leary Hall, 1246 Campus Rd., Lawrence, KS 66045-7521; Telephone: (785)864-6414; 711 TTY; E-mail: ioa@ku.edu**. Complainants are encouraged to file their complaints within one hundred eighty (180) days of the most recent occurrence of the alleged discrimination.

Who must report discriminatory actions?

Unit heads and others who serve in leadership roles in the university are responsible for nondiscrimination in their employment and academic environments. Deans, Directors, Chairpersons or other administrators or supervisors, including faculty members, graduate teaching assistants, and academic advisors shall contact the Office of Institutional Opportunity and Access to initiate an investigation within their area of responsibility if they know or have reason to believe that discriminatory practice(s) may have occurred. The Executive Director of the Office of Institutional Opportunity and Access may also initiate an investigation when appropriate and in the interests of the University to do so.

Complaint

An individual who believes that he or she has been the subject of discrimination or retaliation, or a Dean, Director, Chairperson or other supervisor or administrator who has reason to believe that discrimination or retaliation may have occurred, should contact the Office of Institutional Opportunity and Access to initiate the filing of a complaint. A complaint should include the following, to the extent known and available:

- Name and contact information (address, telephone, e-mail) for the complainant;
- Name of person(s) directly responsible for the alleged discrimination or retaliation;
- Date(s), time(s), and place(s) of the alleged violation(s);
- Nature of the alleged violation(s); i.e. race, sex, disability discrimination or retaliation, etc.;
- Detailed description of the specific conduct that is the basis of the alleged violation(s);
- Copies of any documents or other tangible items pertaining to the alleged violation(s);
- Names and contact information for any witnesses to the alleged violation(s);
- Any other relevant information.

Upon receiving a complaint, the Office of Institutional Opportunity and Access will provide the complainant with an acknowledgement of receipt within seven (7) working days and will include in that acknowledgement the web address where the Discrimination Complaint Resolution Process can be found.

Complaint Evaluation

Upon receiving a complaint, the Office of Institutional Opportunity and Access shall conduct an initial evaluation of the merits of the complaint and determine the appropriate investigatory action required. The Office of Institutional Opportunity and Access staff will contact the dean, director, administrator, supervisor, or chairperson responsible for the unit to inform them of the filing of the complaint. When necessary, appropriate administrator(s) or faculty member(s) may be designated by the Chancellor, Vice Chancellor, Provost, Vice Provost, Dean, Director, or Chairperson, by the Director of the Department of Human Resources, or by the Executive Director of the Office of Institutional Opportunity and Access to participate in the evaluation of the complaint and to facilitate necessary action.

Investigation

A formal investigation will be initiated if a complaint is complete, timely, within the scope of this policy and articulates sufficient facts, which if determined to be accurate, would support a finding that the University's discrimination policies have been violated. Investigators assigned to conduct an investigation will be impartial. In conducting investigations into violations of the University's Policies, the Office of Institutional Opportunity and Access will use a preponderance of the evidence standard in making factual determinations. A preponderance of the evidence standard means the fact in issue is more probably true than not.

Investigation Timeframe

The University will strive to complete discrimination complaint investigations, including issuance of a report of findings to the complainant and respondent, in as timely and efficient a manner as possible within sixty (60) days of receipt of a complaint. However, this timeframe may be extended based on factors such as, but not limited to, schedule and availability of witnesses, holidays or semester breaks including summer break, and complexity of the complaint. If an investigation cannot be completed within sixty (60) days of receipt of the complaint, then the investigator(s) will notify the complainant and respondent of that fact and provide a timeframe for completing the investigation.

Investigation Procedure

The investigation will include the following steps:

- **Notice to Respondent.** The respondent will be provided with a statement of the complaint in writing, and the complainant will be provided a copy of this notification. The respondent will be provided an opportunity to meet with the investigator(s) investigating the complaint and to respond to the allegation. Respondents may respond in person or in writing within a reasonable time to be determined by the investigators. If a respondent chooses not to participate or refuses to answer a complaint, his/her nonparticipation will not prevent the investigation from proceeding and could result in a finding based solely on the information provided by the complainant.
- **Notice regarding Retaliation.** All parties to a complaint (complainant, respondent, witnesses, and appropriate administrators or supervisors) will be informed that retaliation by an individual or his/her associates against any person who files a complaint or any person who participates in the investigation of a complaint is prohibited. Individuals who engage in retaliation are subject to disciplinary action.
- **Contact with Complainant.** If the investigator did not speak with the complainant at the time that the complaint was received by the Office of Institutional Opportunity and Access, then the investigator will meet or speak with the complainant at the start of the investigation and throughout

the investigation as appropriate.

- **Representation.** In any meeting with the investigators, the parties to the complaint (complainant and the respondent) may bring a representative to the meeting. If the representative is an attorney, the party must notify the Office of Institutional Opportunity and Access in writing at least three (3) working days before the meeting date.
- **Information relevant to Investigation.** The parties to a complaint (complainant and respondent) will be informed that they have the opportunity to identify witnesses, present witness statements, and any other evidence they believe relevant to resolution of the complaint. The investigator(s) will interview other persons whom the investigator(s) in his/her discretion determines to be necessary to gather relevant information. The investigator will review any written materials, e-mails or other media that as determined by the investigator in his/her discretion may provide relevant information regarding the complaint.
- **Findings of Investigation.** The investigator(s) will provide a written summary of their findings to the respondent and the complainant within a reasonable time following the conclusion of the investigation. In addition, the investigator(s) will provide a written report of the investigation findings and recommendations to the appropriate administrators within the University who will determine the appropriate action to be taken in light of the investigation findings and recommendations. The administrators will have twenty working days from receipt of the investigation findings and recommendations to determine, in consultation with the Office of Institutional Opportunity and Access, an appropriate resolution(s). Upon making their decision, the administrator(s) will provide written notification of their decision to both the respondent and complainant.
- **Appeals.**
 - **Respondent, Finding of Discrimination or Retaliation with Imposition of Discipline.** If formal disciplinary action is imposed as a result of a finding of violation of the University's policies prohibiting discrimination and retaliation, then a respondent may request a hearing as follows:
 - **Faculty member or an unclassified academic staff member.** The affected employee may request a hearing before the University Judicial Board or the Faculty Rights Board, as determined by the sanction. (See University Senate Rules and Regulations 6.4.2, <https://policy.drupal.ku.edu/governance/USRR> and the Handbook for Faculty and Other Unclassified Staff <https://policy.drupal.ku.edu/provost/faculty-and-unclassified-staff-handbook>.)
 - **Student.** The student may request a hearing in accordance with the Code of Student Rights and Responsibilities <https://policy.drupal.ku.edu/student-affairs/student-rights-responsibilities-code>. If the student does not request a hearing, the Vice Provost for Student Affairs will determine the sanction. (See University Senate Rules and Regulations 6.4.9. <https://policy.drupal.ku.edu/governance/USRR>)
 - **Graduate Teaching Assistant.** A graduate teaching assistant may request a review in accordance with the Memorandum of Agreement between the University of Kansas, the Kansas Board of Regents and the Kansas Association of Public Employees (representing graduate teaching assistants at the University of Kansas, Lawrence) http://www.hr.ku.edu/files/documents/gta_moa.pdf ». (See University Senate Rules and Regulations 6.4.16. <https://policy.drupal.ku.edu/governance/USRR>)
 - **Other Student Employees, including Graduate Research Assistants and Graduate Assistants.** Other student employees, including graduate research assistants and graduate assistants, have an opportunity to have a supervisor's decision reviewed by the next-level administrator, as described in the [Student Employment Handbook](#) », available at the Department of Human Resources web site at <http://www.hr.ku.edu/> ».
 - **Unclassified Professional Staff Employee.** An unclassified professional staff member

may request a hearing in accordance with the unclassified professional staff conflict resolution procedures specified in the Handbook for Faculty and Other Unclassified Staff <https://policy.drupal.ku.edu/provost/faculty-and-unclassified-staff-handbook>. (See University Senate Rules and Regulations 6.4.15 <https://policy.drupal.ku.edu/governance/USRR>.)

- **University Support Staff Employee.** A University Support Staff employee who is not serving an initial probationary period and has been suspended, demoted, or dismissed as a result of a finding of violation of the University's policies prohibiting discrimination and retaliation may appeal the sanction to the University Disciplinary Action Hearing Board in accordance with the procedures set forth in the University Support Staff Handbook. <http://www.hr.ku.edu/files/documents/USSHHandbook.pdf> »
- **Complainant.** If the complainant believes that the Office of Institutional Opportunity and Access Investigator's investigations findings concluding that there was no discrimination or retaliation is in error, then the complainant may appeal that conclusion to the Vice Provost for Diversity and Equity within ten (10) working days of the date of the notice of the investigator's findings. The request for an appeal must be a signed, written document articulating why the investigator's conclusion finding no discrimination or retaliation is erroneous. The Vice Provost for Diversity and Equity will respond to the request for appeal within twenty (20) working days of receiving the appeal. The Vice Provost for Diversity and Equity's decision on appeal will constitute final agency action and there will be no further appeal within the University.

Administrative Closure of a Complaint without Investigation

The University may not proceed with a complaint investigation under a variety of circumstances, for instance:

- A complainant, even after contact and follow up with an investigator, fails to describe in sufficient detail the conduct that is the basis of the complaint;
- The conduct alleged in the complaint is not covered by this policy;
- The complaint is untimely;
- The complainant refuses to cooperate with the University's investigation;
- The complainant is anonymous.

If it is determined that the University will not proceed with investigation of a complaint, the Office of Institutional Opportunity and Access will notify the complainant (if not anonymous) in writing explaining the reasons why the complaint is not being investigated. The notification letter will include a statement notifying the complainant that he or she may appeal the determination not to proceed with an investigation of the complaint to the Vice Provost for Diversity and Equity with ten (10) working days of the notice. The request for an appeal must be a signed, written document articulating why the decision to administratively close the complaint without an investigation was in error. The Vice Provost for Diversity and Equity will respond to the request for appeal within twenty (20) working days of receipt of the appeal. If the decision to administratively close the complaint without an investigation is upheld, then that decision will constitute final agency action and there is no further appeal within the University. If the decision to administratively close the complaint without an investigation is overturned, the complaint will be sent back to the Office of Institutional Opportunity and Access for investigation in accordance with this procedure.

Extensions of Time

The Office of Institutional Opportunity and Access will make every reasonable attempt to adhere to the time limits set forth in these procedures. However, it is recognized that circumstances may necessitate an extension of time. Therefore, the Executive Director of Institutional Opportunity and Access may extend

the time limits set forth in these procedures.

Retaliation

Retaliation against persons who file discrimination complaints or persons who participate in an investigation of a complaint, whether by an individual directly involved or by his/her associates, is a violation of law and University policy. Complainants who utilize these procedures or persons who participate in an investigation of a complaint should not be subjected to retaliation. Retaliation may take the form of unwanted personal contact from the respondent or giving additional assignments that are not assigned to others in similar situations, poor grades or unreasonable course assignments. Phone calls, e-mail or other attempts to discuss the complaint may be perceived as retaliation under certain circumstances. Disciplinary action, harassment, unsupported evaluations, or other adverse changes in the conditions of employment or the educational environment may also constitute retaliation. Retaliation will not be tolerated and could result in suspension, reassignment, salary reduction, termination, expulsion or other disciplinary action.

Abuse of the Discrimination Complaint Resolution Process

The University takes all discrimination complaints seriously. However, knowingly filing a false complaint is considered serious misconduct and is also subject to sanction. An individual who establishes a pattern of repeatedly filing frivolous complaints that harass colleagues and/or abuse the complaint resolution process may lose the right to file complaints for a specified period of time. Such cases shall be treated in accordance with the provisions of University Senate Rules and Regulations section 6.5.4, Abuse of Grievance Process.

Confidentiality

The Office of Institutional Opportunity and Access will handle all discrimination and harassment complaints discreetly but cannot guarantee confidentiality or anonymity because the University has an obligation to investigate complaints of discrimination and harassment and to maintain a safe environment, free from harassment and discrimination. Because of its obligations under the law, KU will not be able to honor all requests for confidentiality or all requests that a complaint not be pursued.

However, complainants, respondents, witnesses, and any other parties involved in a complaint of discrimination shall refrain from disclosing information about a complaint of discrimination to anyone who does not have a legitimate, business need or right to know. Such disclosures are inappropriate and unprofessional and may result in disciplinary action. The foregoing does not preclude either party from seeking the advice or counsel of a supervisor, counselor, attorney, or other person in a similar role.

State and Federal Reporting of Discrimination

Employees may file employment discrimination complaints with the Equal Employment Opportunity Commission or the Kansas Human Rights Commission. Students may file discrimination complaints through the Office of Civil Rights in the U. S. Department of Education or the Kansas Human Rights Commission. The Office of Institutional Opportunity and Access can provide information about deadlines and filing procedures for the state and federal agencies.

EXCLUSIONS OR SPECIAL CIRCUMSTANCES:

In accordance with the "Abuse of the Discrimination Complaint Resolution Process" section above and the provisions of the University Senate Rules and Regulations 6.5.4, an individual who establishes a pattern of repeatedly filing frivolous complaints may lose the right to file complaints for a specified period of time.

CONSEQUENCES:

Members of the University community who are found to have violated the University Nondiscrimination Policy are subject to disciplinary actions appropriate to their status as faculty, staff, or student employees or as students.

CONTACT:

The Office of Institutional Opportunity and Access provides information and educational programs regarding equal opportunity, sexual harassment, discrimination, disabilities, hiring, and affirmative action. The Office of Institutional Opportunity and Access monitors hiring procedures, resolves discrimination complaints, oversees the University of Kansas nondiscrimination policies and is responsible for administering the University's Discrimination Complaint Resolution Process.

Inquiries regarding affirmative action, equal opportunity, complaints regarding discrimination, harassment, or retaliation on the Lawrence Campus, or the University's Discrimination Complaint Resolution Process may be made to:

Office of Institutional Opportunity and Access

1246 W. Campus Road

153 Carruth O'Leary

Lawrence, KS 66045

785-864-6414

ioa@ku.edu

sexualharassment@ku.edu

Contact:

Jane McQueeney, Executive Director

Office of Institutional Opportunity and Access

785-864-3687 direct phone line

785-864-8069 fax

711 TTY

jane.mcqueeney@ku.edu

APPROVED BY:

Provost and Executive Vice Chancellor

APPROVED ON:

Tuesday, July 1, 2003

EFFECTIVE ON:

Friday, August 1, 2003

REVIEW CYCLE:

Annual (As Needed)

RELATED POLICIES:

Nondiscrimination Policy

<https://policy.drupal.ku.edu/IOA/nondiscrimination>

Policy Against Racial & Ethnic Harassment

<https://policy.drupal.ku.edu/IOA/racial-ethnic-harassment-policy>

University Senate Rules and Regulations

<https://policy.drupal.ku.edu/governance/USRR>

Handbook for Faculty and Other Unclassified Staff

<https://policy.drupal.ku.edu/provost/faculty-and-unclassified-staff-handbook>

Code of Student Rights and Responsibilities

<https://policy.drupal.ku.edu/student-affairs/student-rights-responsibilities-code>

DEFINITIONS:

Sexual Harassment: “Sexual Harassment” means behavior, including physical contact, advances, and comments in person, through an intermediary, and/or via phone, text message, email, social media, or other electronic medium, that is unwelcome; based on sex or gender stereotypes; and is so severe, pervasive and objectively offensive that it has the purpose or effect of substantially interfering with a person’s academic performance, employment or equal opportunity to participate in or benefit from University programs or activities or by creating an intimidating, hostile or offensive working or educational environment. Sexual Harassment may include but is not limited to:

- (1) unwelcome efforts to develop a romantic or sexual relationship;
- (2) unwelcome commentary about an individual’s body or sexual activities;
- (3) threatening to engage in the commission of an unwelcome sexual act with another person;
- (4) stalking or cyberstalking;
- (5) engaging in indecent exposure; voyeurism, or other invasion of personal privacy;
- (6) unwelcome physical touching or closeness;
- (7) unwelcome jokes or teasing of a sexual nature or based upon gender or sex stereotypes; and
- (8) sexual violence, as defined below.

Title IX and University Policy prohibit gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

Sexual Violence: “Sexual violence” means any physical act which is sexual in nature that is committed by force or without the full and informed consent of all persons involved. Sexual violence may include but is not limited to rape, sexual assault, sexual battery, and sexual exploitation. Sexual violence can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual violence can be committed by men or by women, and it can occur between people of the same or different sex.

Gender Identity: The gender that a person claims for oneself – which may or may not align with the gender assigned to the person at birth.

Gender Expression: How a person behaves, appears, or presents oneself with regard to societal expectations of gender. This may include clothing, hairstyle, facial make-up, vocal inflection, posture, and behavior regardless of the individual’s biological sex.

KEYWORDS:

Discrimination, race, racial harassment, religion, color, sex, sexual harassment, sexual violence, disability, national origin, ancestry, age, veteran status, sexual orientation, marital status, parental status, gender equity, gender identity, rape

REVIEW, APPROVAL & CHANGE HISTORY:

09/26/2014: Updated reference to 'Vice Provost for Student Success' to 'Vice Provost for Student Affairs' for accuracy. Minor formatting updates to correct spacing.

November 2013: clarified that the preponderance of the evidence standard is applied in conducting investigations.

These procedures were adopted in 1977, amended in 1979 and 1980, revised in May 1988 and July 2003, amended to include gender identity and gender expression in October 2009, revised in January 2011, April 2011, and August 2011; added Age Discrimination Act of 1975 and University of Kansas Combined Notice of Nondiscrimination April 30, 2012; changed contact information to Institutional Opportunity and Access and Vice Provost, Diversity and Equity June 2012.

Personnel: Administrators Categories: *Grievance & Appeals*

Personnel: Affiliates/Volunteers Categories: *Grievance & Appeals*

Personnel: Faculty/Academic Staff Categories: *Grievance & Appeals*

Personnel: Staff Categories: *Grievance & Appeals*

Personnel: Student Employees Categories: *Grievance & Appeals*

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The University of Kansas [prohibits discrimination](#) on the basis of race, color, ethnicity, religion, sex, national origin, age, ancestry, disability, status as a veteran, sexual orientation, marital status, parental status, retaliation, gender identity, gender expression and genetic information in the University's programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies and is the University's Title IX Coordinator: the Executive Director of the Office of Institutional Opportunity and Access, IOA@ku.edu, 1246 W. Campus Road, Room 153A, Lawrence, KS, 66045, (785)864-6414, 711 TTY.