

*Grievance Policy and
Procedures for
Charges of
Discrimination*

George Mason
University

George Mason University is committed to creating and maintaining a campus free from discrimination. Discrimination is against the law, fundamentally compromises the learning and working environment of the university, and will not be tolerated. Every member of the university community, including visitors and guests, has the unquestioned right to work, live, and study at George Mason without the fear, distrust, and anxiety caused by discrimination.

This pamphlet is addressed to all members of the George Mason University community. It was prepared by the George Mason University Equity Office.

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GRIEVANCE POLICY AND PROCEDURES FOR CHARGES OF DISCRIMINATION

The policy and the procedures outlined in this pamphlet attempt to assist individuals on George Mason University's campus who believe that they have been subjected to discrimination. The university's nondiscrimination policy prohibits discrimination based on race, color, religion, national origin, disability, sexual orientation, veteran status, sex, or age. The University Equity Office is specifically charged, in partnership with the executive vice presidents, to ensure that the campus community is free from discriminatory actions and behaviors. It is understood that this policy may require review and (if necessary) a revision from time to time. The University Equity Office will take the lead in these modifications.

George Mason University is committed to providing faculty, staff, and students with an environment free from discrimination where they may pursue their careers or studies. The cornerstone of this commitment is the university's nondiscrimination policy, which reads as follows:

George Mason University is an equal opportunity and an affirmative action employer committed to the principle that access to study or employment opportunities afforded by the university, including all benefits and privileges, be accorded to each person – student, faculty, or staff member – on the basis of individual merit and without regard to race, color, religion (employees), national origin, disability, sexual orientation, veteran status, sex, or age.

George Mason University will maintain a continuing affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices in every phase of university operations. Furthermore, affirmative action will be taken to ensure that opportunities afforded to students and employees by the university are fully available to minorities, women, persons with disabilities, and disabled and Vietnam era veterans. The university will make every reasonable accommodation to enable students and employees with disabilities to undertake work or study for which they qualify.

As required by the Civil Rights Act of 1964, as amended, in particular Titles VI and VII, the university is committed to the broad application of Executive Order 11246, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

Students or employees should bring problems or questions regarding equal opportunity/affirmative action policies or procedures to the attention of the supervisor, the department chair, the dean of student services, an academic dean, the director of human resources, the university ombudsman, a trusted staff or faculty member, the Women's Studies Center, or the vice president and university equity officer, D105 Mason Hall, 993-8730. Students with disabilities may also contact the Disability Resource Center in 304 Student Union 1 or call 993-2474.

COMPLAINT PROCEDURE

*(except allegations of sexual harassment**)*

The University Equity Office will be responsible for administering this policy and its procedures for the university. The university's executive vice presidents have responsibility for ensuring that all supervisors on the campus receive information concerning the university's nondiscrimination policy, those factors that constitute discrimination, and, particularly, the role and responsibilities of supervisors when complaints are received.

[* *Allegations of sexual harassment are reviewed under a separate process at George Mason University. That process is also administered by the University Equity Office. Contact the Equity Office in Room D105 Mason Hall or call (703) 993-8730 for more information.]

I. Purpose and Scope

This complaint procedure is intended to provide a fair, prompt, and reliable determination about whether the university's nondiscrimination policy has been violated. It is available to anyone who, at the time of the alleged incident, was either employed by or enrolled at George Mason University or was an applicant for either employment or enrollment at the university. *No university employee or student is exempt from the jurisdiction of this policy.*

In most instances, the complainant will be the victim of the alleged discrimination. However, the university reserves the right to initiate formal proceedings against an employee or student who has demonstrated a continuing pattern of discrimination. The university equity officer will determine when the university should pursue the charges against an alleged discriminating person(s) [ADP].

In determining whether an alleged incident constitutes discrimination, those entrusted with administering this policy will look at the

totality of the circumstances, such as the nature of the incident and the context in which the alleged incident occurred. The determination of a suitable penalty will be made from a finding of fact on a case-by-case basis and from any record of previous discrimination by the ADP.

As in any complaint procedure, justice requires that the legal rights as well as the right to academic freedom of the complainant and the ADP be fully assured. The university will make every effort to protect these rights.

This procedure is not intended to impair or limit the rights of an individual to seek a remedy available under state or federal law, or through the internal administratively guaranteed processes such as the classified grievance system, the faculty grievance process, or the student judiciary system. A complainant may file a complaint through one of the internal processes or with an external agency to meet state and federal agency deadlines.

However, if a complainant utilizes another internal grievance process or seeks relief outside the university (e.g., EEOC, OCR, state or federal courts), the university reserves the right to suspend this process or hold it in abeyance.

II. Timelines

Complainants are encouraged to file a charge as soon as possible after an alleged incident of discrimination has occurred. However, the university is aware that this is not always possible. Therefore, George Mason strongly encourages individuals who believe that they have been discriminated against to file a complaint with the university administration within four months or 120 calendar days following an incident. If the complainant can show good cause to do so, the timeline may be waived by the vice president and university equity officer. This waiver should normally not exceed six months or 180 calendar days from the date of the last incident of alleged discrimination.

The university's goal is to process complaints covered under these procedures within 180 days of the date the complaint is filed in the University Equity Office.

III. Retaliation

Any retaliation against members of the George Mason community who exercise their right to file charges of discrimination is strictly prohibited by federal law and university regulations. Retaliation is prohibited whether or not the charging party prevails in the original

charge. Subsequent to, or contemporaneous with the charge, no agent of the university may harass, coerce, intimidate, or discriminate against an individual who has filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such harassment or intimidation.

Charges of retaliation will be treated as separate and distinct from the original charges and allegations and will be investigated by the University Equity Office.

IV. Informal Process

Persons with allegations of discrimination are encouraged to consult and seek an informal resolution through their immediate supervisors, department chairs, the dean for student services, an academic dean, the director of human resources, or the vice president and university equity officer to learn about the options and resources available to them. In some circumstances, informal resolution of a complaint may prove to be more beneficial than the protracted formal process. Even though efforts are being made to handle the complaint informally, university personnel are required to contact the University Equity Office about the existence of the complaint within 10 calendar days of initial contact with the complainant.

The immediate supervisor, a department chair, dean for student services, academic dean, or director of human resources is responsible for 1) making an inquiry into the matter; 2) counseling both parties; 3) negotiating and/or mediating an informal resolution; and 4) notifying the University Equity Office in writing about the results of the informal process within 30 days.

If all attempts at informal resolution are unsuccessful, the complainant, if he or she chooses to file internally, must file a formal complaint, within the established timelines, with the University Equity Office.

V. Filing a Complaint

Any individual who chooses to file a formal discrimination complaint should do so with the Equity Office in accordance with the timelines outlined in Section II. (Timelines) above. The Equity Office will advise complainants about the formal complaint procedure as well as possible sanctions and forms of remedy. When appropriate, the Equity Office may also recommend counseling or other support services that provide assistance to the complainant. One of the goals of the Equity Office is to work fairly with all parties and advise all parties of their rights and responsibilities under these and similar procedures.

In most instances, the complainant will be the victim of the alleged discrimination or harassment. However, the university reserves the right to initiate formal proceedings against an employee or student. The university equity officer, in conjunction with the ADP's executive vice president, will determine when the university should pursue the charges against an ADP.

The Equity Office will maintain a record of all complaints received, including complainants' and ADPs' names, and the determination.

VI. Formal Procedure

A complainant may file a formal complaint immediately or may do so after efforts to reach an informal settlement are unsuccessful.

The complainant must present the complaint in writing. The complaint must state, clearly and concisely, the complainant's description of the incident(s); it must also indicate any remedy sought. The complainant must sign the complaint. The Equity Office will send a copy of the complaint to the ADP and the ADP's executive vice president.

The ADP will have 10 working days to respond in writing. This statement will contain full and specific responses to each of the complainant's allegations, admitting, denying, or explaining his or her actions. The ADP must sign his or her statement, which will then be appended to the original complaint. Within five working days, the Equity Office will forward both statements to the complainant, the ADP, and the ADP's executive vice president.

A fact-finder will be assigned by the vice president and university equity officer to investigate the allegations. Both the complainant and ADP will have the opportunity to meet and discuss the allegations with the fact-finder and may present any witnesses in support of their statements to the fact-finder during the course of the investigation.

VII. Determination of Vice President and University Equity Officer

The investigating fact-finder gathers and presents the evidence to the vice president and university equity officer to determine whether the university's policy on discrimination has been violated. If the policy has been violated, the vice president and university equity officer will prepare a determination and will recommend a penalty for the ADP and relief for the complainant. The findings of fact as well as the recommended penalty and relief will be based solely on the preponderance of evidence presented to the vice president and university equity officer.

The ADP's executive vice president will be in receipt of a complete copy of the determination/recommendation. The executive vice president may accept the decision or may remand the decision back to the Equity Office after reviewing the decision and the record of the proceedings. If the executive vice president remands the case back to the Equity Office, the executive vice president may only do so on the following grounds: 1) new or material evidence unavailable to the investigative fact-finder during the investigation; or 2) the executive vice president's decision to modify the penalty. In cases where the executive vice president remands the case back to the Equity Office on the above grounds, a meeting will be held between the vice president and university equity officer and the executive vice president. The result of that meeting will be the final disposition of this matter. *(Please note, the executive vice president may never reject or modify the recommended penalty without remanding the case back to the vice president and university equity officer, and thus having a meeting to discuss the reason for changing the recommended penalties.)*

If the executive vice president accepts the decision, he or she must notify the vice president and university equity officer, complainant, and respondent, not later than 15 working days after acceptance of the decision. The executive vice president will be responsible for implementing both the penalty and remedy in a timely manner.

VIII. Appeal by Written Petition

The complainant(s) has the right to appeal the decision of the vice president and university equity officer and the executive vice president by petitioning the President's Office. The written appeal must be made within 20 calendar days of receipt of the determination letter from the executive vice president. This appeal can only be made on the grounds that there is new or material evidence unavailable at the time of the investigation or on the belief that there was a procedural violation of the university's procedures. The president, or his designee, will render a written decision within 15 working days from receipt of the appeal.

Upon review, the president may reserve the right to:

a) affirm or revise the decision of the executive vice president;
b) request specific findings from the vice president and university equity officer; or c) remand the case to the vice president and university equity officer for further review of the record.

Once this is concluded, the complainant will not have further appeal rights under this process within the university.

At any point in the process, should the complainant and/or the respondent believe that the university has not responded to his or her needs, he or she can file a complaint with any of the outside agencies listed below or may utilize the appropriate administrative grievance procedures available to instructional faculty, classified staff, or students. Please note that if either party intends to file with an outside agency as listed below, the party must do so within 180 days of the incident that precipitated the complaint:

**Office of Equal Employment Services
Commonwealth of Virginia
Department of Personnel and Training
James Monroe Building
101 North 14th Street
Richmond, VA 23219
(804) 225-2135**

**U.S. Equal Employment Opportunity Commission
Washington Field Office
1400 L Street, NW, Suite 200
Washington, DC 20005
(202) 275-7037**

**Office for Civil Rights
U.S. Department of Education
1100 Pennsylvania Avenue, NW, Room 316
P. O. Box 14620
Washington, DC 20004
(202) 208-2545**

IX. Records

The office of the vice president and university equity officer will keep records of all formal mediation and reviews. The records will be available to the vice president and university equity officer, an ADP's executive vice president, and the president *only in the following circumstances*:

a) when determining an appropriate procedure or penalty for a subsequent discrimination complaint; b) when a complaint of retaliation is made; c) when a decision is reviewed; or d) when an ADP is a candidate for a supervisory position.

The records will be available to the university's legal affairs liaison and the Commonwealth's Attorney General's Office, if needed, for any proceeding related to this policy and these procedures, whether

internal to the university or in any judicial or administrative proceeding in which the university, its trustees, officers, employees, or agents are a party.

Any records concerning students will be maintained in accordance with all pertinent federal and state laws and regulations.

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George Mason University

University Equity Office