

University Equity Office

Process for
Investigating
Complaints

George Mason
University

UNIVERSITY EQUITY OFFICE PROCESS FOR INVESTIGATING COMPLAINTS

I. PURPOSE

George Mason University's Equity Office has established this process to assist it in carrying out its responsibilities in administering and enforcing applicable federal and state laws and university policies related to nondiscrimination and investigating complaints. The University Equity Office (UEO) may from time to time amend this process as necessary.

II. JURISDICTION OF UNIVERSITY EQUITY OFFICE

Consistent with federal and state laws¹ and university policies related to nondiscrimination, the UEO only investigates complaints of unlawful discrimination and/or harassment on the basis of race, color, religion, sex (including sexual harassment²), national origin, age, disability, veteran status, or sexual orientation. The UEO investigates such complaints of discrimination and/or harassment at George Mason University and renders a determination following such investigations.

The UEO also investigates and resolves allegations of retaliation against individuals who have raised claims of discrimination based on the above factors or who have cooperated in an investigative process in some manner. Retaliation is a negative action taken by a university official³ against an individual as a result of a complaint being filed or after an individual has cooperated with an investigative process.

¹ Titles VI and VII of the Civil Rights Act, as amended; Executive Order 11246; Title IX of the Education Amendments; the Equal Pay Act; the Americans with Disabilities Act; Section 504 of the Rehabilitation Act; the Age Discrimination Act; and the Age Discrimination in Employment Act

² Sexual harassment is a form of sex discrimination; however, there is a separate process for allegations of sexual harassment. Contact the UEO for more information.

³ Any person identified by the university as having supervisory responsibility.

The UEO takes any allegation of discrimination, harassment, and/or retaliation seriously and is committed to protecting the integrity of the investigation process (i.e., confidentially and due process rights of all individuals).

III. UEO PREINVESTIGATION PROCESS (INTAKE PROCESS)

A discrimination and/or harassment complaint preinvestigation begins with the intake phase. In an intake interview, a member of the UEO staff interviews the complainant to determine the nature of the complaint and whether initial facts appear to support a violation of state regulations, federal laws, and/or university policies regarding nondiscrimination. Should the allegation support such a violation, the intake interviewer provides the complainant with the necessary information to submit a complaint (e.g., guidelines, time line, and complaint form). The interviewer explains the internal process and provides information regarding the individual’s right to pursue the complaint with the appropriate external federal and/or state agencies.

Upon receipt of a formal written complaint of discrimination and/or harassment, the UEO sends a letter to the complainant acknowledging the complaint and naming the investigative fact-finder to whom the complaint has been assigned. The letter also informs the complainant that the investigative fact-finder will contact him or her to schedule an interview and will inform the appropriate individual(s) that any retaliatory conduct may subject him or her to sanctions.

IV. REQUIREMENTS OF A COMPLAINT

The complaint must be submitted on the UEO “Complaint of Discrimination” form. Each complaint form shall include the following:

- The full name, address, telephone number, and status of the complainant (The complainant is the person who files the complaint alleging that he or she has been the subject of discriminatory action.)
- The name, title, and department of the respondent (The respondent is the person against whom the complaint is filed.)

- The basis of the alleged discrimination and/or harassment (e.g., age, race, sex, disability)
- A clear and concise written statement⁴ of the facts that constitute the alleged discriminatory act(s), including pertinent dates and sufficient information to identify any other individuals who may provide information during the course of the investigation
- The complainant's signature and date of signature

If at any stage of the investigation process the UEO determines that a complainant and/or witness has knowingly lied or deliberately provided false information to the UEO and/or the investigative fact-finder, the UEO may recommend that disciplinary action be taken against that individual. This disciplinary action may include dismissal, and such individuals may also be subject to independent legal action by individuals wrongfully accused of misconduct. A complainant, whose allegations are truthful, but not substantiated by the UEO, has **not** provided false information within the meaning of this process.

V. INVESTIGATIVE FACT-FINDER

The investigative fact-finder is authorized to contact any and all individuals, including, without limitation, current or former university employees or students who may have information relevant to the complaint. The investigative fact-finder is authorized to access relevant records, including personnel, grievance, and student records and also has full authority to conduct the investigation at his or her discretion.

The investigative fact-finder is expected to (1) contact the respondent and any other appropriate individual(s) to inform them of the complaint; (2) remind the respondent and other individuals

⁴ A written submission is required by the UEO because it affords the complainant an opportunity to organize his or her thoughts and to submit the complaint as dispassionately as possible. In addition, the submission of a written complaint allows the investigative fact-finder to continuously review the facts as stated and monitor the initial complaint.

about the university's prohibition against retaliation against individuals who file complaints with the UEO and/or serve as witnesses or otherwise cooperate with the UEO investigation, regardless of whether the UEO ultimately determines that the allegation constituted unlawful discrimination and/or harassment; (3) arrange a mutually agreeable time to meet with the complainant and the respondent separately to discuss the specifics of the complaint (e.g., to identify witnesses, date[s], and place[s] of alleged incidents); (4) request a rebuttal statement regarding the allegations from the respondent and a response to the rebuttal from the complainant; (5) interview all witnesses identified by the complainant and respondent who are believed by the investigative fact-finder to have first-hand knowledge of the allegation or other relevant information; (6) review all documents and other evidence relevant to the complaint; (7) keep the parties with a need to know informed about the status of the investigation; (8) submit a written investigation report to the vice president and university equity officer (VPUEO) in a timely manner; and (9) prepare a written determination once the VPUEO has approved the investigative report.

After the initial intake process, all questions and/or communications regarding a complaint should be addressed to the investigative fact-finder assigned to that case unless otherwise directed by the investigative fact-finder.

VI. TIME LINE FOR INVESTIGATION PROCESS

Remember, a sound, thorough investigation takes time . An investigative fact-finder may take from three to six months to investigate a single claim of discrimination and/or harassment. There are many factors that interfere with an investigative fact-finder's commitment to complete an impartial investigation report and determination promptly. Some examples of these factors are as follows:

- The respondent does not provide a written response to the allegation(s) within the given time frame of 10 days.
- The complainant does not refute the respondent's written response in a timely fashion.

- There is difficulty in scheduling interviews with witnesses and obtaining requested data.
- University holidays and vacation periods occur.
- The VPUEO requests additional information to satisfy the findings in the investigative report.

VII. BURDEN OF PROOF

The burden of proof in a discrimination and/or harassment complaint always rests with the complainant. Failure to cooperate during the investigation process may result in dismissal of the complaint. The standard for the burden of proof lies in the preponderance of evidence (i.e., evidence that, when fairly considered, produces the stronger impression and has the greater weight).

This brochure was prepared and printed by

George Mason University
UNIVERSITY EQUITY OFFICE

revised 6/01