

Michigan State University
Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy
Appeal Procedures

Background

The University prohibits acts of discrimination and harassment, including sexual misconduct, through its Anti-Discrimination Policy and Relationship Violence & Sexual Misconduct Policy.

All complaints of alleged discrimination or harassment in violation of the Anti-Discrimination Policy (“ADP”) or alleged relationship violence, stalking, or sexual misconduct in violation of the Relationship Violence & Sexual Misconduct Policy (“RVSMP”) are investigated by or under the oversight of the Office of Institutional Equity (“OIE”) and, where a hearing is held, a Resolution Officer. These procedures provide a process to appeal findings issued by OIE or the Resolution Officer following an investigation. These procedures also provide a process to appeal sanctions imposed on student respondents following a finding that a student violated the ADP or RVSMP.

I. APPEALS

Both the claimant and respondent may appeal pursuant to the following guidelines:¹

- A. Appeals are filed in writing and must specify the basis for appeal in sufficient detail to justify further proceedings.
- B. Appeals must be submitted within 10 days² of written notice of the findings of OIE or the Resolution Officer in all cases, except, where a student respondent is found to have violated the ADP or RVSMP, an appeal must be submitted within 10 days of written notice of the sanction decision.
- C. Appeals must allege one or more of the following:
 - a. The finding was arbitrary and capricious. A finding is arbitrary and capricious when the application of the policy has no reasonable basis in fact.
 - b. The finding resulted from procedural error. A finding resulted from procedural error where the procedural error (including bias or impartiality) materially affected the outcome.

¹ In cases where the University is acting as claimant, the individual who may have been subjected to prohibited conduct will be permitted to provide input on whether the University appeals.

² References to “days” in this document refer to calendar days. If a deadline contained within this document falls on a weekend or University holiday, the deadline will be extended to the next day on which the University is open for business.

- c. Where a sanction has been decided for a student, the sanction is clearly inappropriate or is not commensurate with the seriousness of the offense.
- D. The party filing the appeal bears the burden of proof.
- E. Each party will be provided an opportunity to respond in writing to an appeal filed by the other party. OIE and/or the Resolution Officer will also be provided an opportunity to respond in writing to any appeal of the decision. Written responses to an appeal must be filed within 10 days of the written notice of appeal. Copies of written responses will be shared with the other part(ies) and OIE. Additional rebuttal statements will not be accepted.
- F. Appeals will be decided by an Equity Review Officer. The Equity Review Officer is a neutral individual appointed by the Provost to adjudicate appeals under this process. The Equity Review Officer receives annual training regarding the University's policies and procedures and best practices in conducting investigations of prohibited harassment and discrimination, including sexual violence. The Equity Review Officer may confer with the Title IX Coordinator and other University administrators as necessary and will be advised by the Office of the General Counsel.
- G. New evidence will not be considered in an appeal unless the information is substantive and relevant to the investigation, was previously unavailable to the party submitting it, and the party acted with due diligence to obtain such evidence.
- H. The Equity Review Officer will review the appeal, any written responses to the appeal, the investigation report, and relevant portions of any hearings (if applicable). The Equity Review Officer may request other relevant documents or information necessary to his/her review of the appeal. This includes requests for clarification or additional explanation from OIE and/or the Resolution Officer. If clarification or additional explanation is provided by OIE or the Resolution Officer as part of the appeal review, it will be shared with the parties, who will be given an opportunity to provide further comment to the Equity Review Officer before the appeal decision is made.
- I. The Equity Review Officer may choose to meet with a party if the Equity Review Officer deems it necessary for his/her review of the appeal. If the opportunity to meet is provided to one party, it will be provided automatically to the other party. Providing such an opportunity shall not unreasonably delay the appeal process.
- J. The Equity Review Officer will issue a written decision within 14 days of receiving the appeal documents.
- K. In an appeal of finding(s) issued by OIE or the Resolution Officer, the Equity Review Officer may:
 - a. Uphold the finding;

- b. Determine that significant procedural error occurred during the investigation/hearing and remand the matter to OIE or the Resolution Officer with instructions to remedy the procedural errors;
 - c. Determine that the finding is arbitrary and capricious as written and remand to OIE or the Resolution Officer to issue a revised finding;
 - d. Determine that substantive and relevant new evidence has been presented that warrants additional investigation or review by OIE and/or the Resolution Officer;
or
 - e. Overturn or modify the investigation finding based on a determination that the decision was arbitrary and capricious or resulted from procedural error.
- L. In appeals of a student sanction, the Equity Review Officer may uphold the sanction or alter the sanction if it is determined that the sanction is clearly inappropriate or is not commensurate with the seriousness of the offense.
- M. The decision of the Equity Review Officer is final and is not subject to appeal.

II. TIMEFRAMES

The timeframes in this document may be extended for good cause, as determined by the Equity Review Officer, provided that the parties are provided with notice of the extension. Good cause is typically found where circumstances outside of a party's control would prevent that party from complying with the deadline. Requests for extensions should be made to the Equity Review Officer before the deadline has expired and explain why there is good cause for the extension.

III. ELECTRONIC SUBMISSIONS

All appeals, responses, and other documents submitted through this process should be submitted electronically, either to the Equity Review Officer at ERO@msu.edu, or, where a student has been found to have violated policy, per the instructions of the Dean of Students Office.

IV. PRIVACY

Records of the Equity Review Officer are considered private and are only shared on a need to know basis and as required by law. In accordance with state and federal law, the University identifies the names of respondents and student disciplinary sanctions in sexual violence cases upon receipt of public information requests. The University redacts all information that might disclose the identity of an individual subjected to sexual misconduct or prohibited harassment.