

Michigan State University
Anti-Discrimination Policy/Relationship Violence & Sexual Misconduct Policy
Employee 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 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). These procedures provide a process for employees to appeal investigation findings issued by OIE. These procedures may not be utilized by employees who have an available appeal through a separate grievance or administrative process.¹

I. APPEALS

Both the claimant and respondent may appeal the decision of OIE pursuant to the following guidelines:

- A. Appeals are filed in writing and must specify the basis for appeal in sufficient detail to justify further proceedings. Appeals must be filed within 10 days² of written notice of the investigation outcome.
- B. An appeal must allege that the OIE finding was arbitrary and capricious or resulted from procedural error. A finding is arbitrary and capricious when the application of the policy has no reasonable basis in fact. A finding resulted from procedural error where the procedural error (including bias or impartiality) materially affected the outcome.
- C. The party filing the appeal bears the burden of proof.
- D. Each party will be provided an opportunity to respond in writing to an appeal filed by the other party. The OIE will also be provided an opportunity to respond in writing to any appeal of its 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 party/OIE; additional rebuttal statements will not be accepted.

¹ Employees who are eligible to file a grievance under the Faculty Grievance Policy are not precluded from using this appeal procedure given that the faculty grievance process may not be used to appeal OIE investigation findings.

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.

- E. The appeal 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 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.
- F. 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.
- G. The Equity Review Officer will review the appeal, any written responses to the appeal, and the OIE investigation report. The Equity Review Officer may request other relevant documents necessary to his/her review of the appeal through the OIE Director. This includes requests for clarification or additional explanation from OIE regarding its report of findings. If clarification or additional explanation is provided by OIE 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.
- H. 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.
- I. The Equity Review Officer will issue a written decision within 14 days.
- J. In appeals regarding the OIE investigation finding, the Equity Review Officer may:
 - a. Uphold the OIE investigation finding;
 - b. Determine that significant procedural errors occurred during the OIE investigation and remand the matter to OIE with instructions to re-open the investigation to clarify its findings or remedy procedural errors;
 - c. Determine that substantive and relevant new evidence has been presented that warrants additional investigation or review by OIE; or
 - d. Overturn or modify the OIE investigation finding based on a determination that the OIE decision was arbitrary and capricious or resulted from procedural error.

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 and the expected date of the decision (if applicable).

III. ADMINSTRATIVE SUPPORT

The Equity Review Officer is supported administratively by the Faculty Grievance Office. All appeals and other documents submitted through this process should be directed to the following address:

Equity Review Officer
Faculty Grievance Office
W38 Owen Graduate Hall
Michigan State University
East Lansing, MI 48825-1109
Phone: 517-353-8884
Email: ERO@msu.edu

IV. CONFIDENTIALITY

Records of the Equity Review Officer are considered confidential to the maximum extent permitted by law.

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