

Michigan State University
Anti-Discrimination Policy Appeal Procedures

Background

The University prohibits acts of discrimination and harassment through its Anti-Discrimination Policy.

All complaints of alleged discrimination or harassment in violation of the Anti-Discrimination Policy ("ADP") are investigated by or under the oversight of OCR's Investigation, Support and Resolution Department ("ISR"). These procedures provide a process to appeal findings issued by ISR 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.

I. APPEALS

Both the claimant and respondent may appeal 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.
- B. Appeals must be submitted within 10 business days of written notice of ISR's findings in all cases, except, where a student respondent is found to have violated the ADP, an appeal must be submitted within 10 business days of the written notice of the sanction decision.
- C. Appeals must allege one or more of the following:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - The investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or
 - The written decision was arbitrary and capricious. A decision or finding is arbitrary and capricious when the application of the policy has no reasonable basis in fact.
 - 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. ISR 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 business days of the written notice of appeal. Copies of written responses will be shared with the other part(ies) and with ISR. 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 Vice President of Civil Rights and Title IX Education and Compliance 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.
- 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, and the investigation report. 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 ISR. If clarification or additional explanation is provided by ISR 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 will issue a written decision within 18 business days of receiving the appeal documents, including any response to the appeal.
- J. In an appeal of finding(s) issued by ISR, the Equity Review Officer may:
 - a. Uphold the finding;
 - b. Determine that procedural irregularity occurred and affected the outcome and remand the matter to ISR with instructions to remedy the procedural irregularity;
 - c. Determine that the finding is arbitrary and capricious as written and remand to ISR to issue a revised finding;
 - d. Determine that substantive and relevant new evidence has been presented that warrants additional investigation or review by ISR; or
 - e. Overturn or modify the investigation finding based on a determination that the decision was arbitrary and capricious or resulted from procedural error.
- K. 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.
- L. 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 to the Equity Review Officer at ERO@msu.edu.

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.

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