



Compliance, Diversity & Ethics

Equal Opportunity/Affirmative Action Grievance Procedure

This procedure replaces all previous procedures for investigation of complaints of discrimination and sexual harassment.

I. Scope

This procedure applies to all George Mason University faculty, staff, students, university contractors, vendors and visitors.

II. Policy Statement

The Equal Opportunity/Affirmative Action Grievance Procedure is the responsibility of Compliance, Diversity and Ethics (CDE). The procedure assists the university in carrying out its responsibilities in administering and enforcing applicable federal and state laws and university policies related to nondiscrimination and investigation of complaints. CDE may amend this process as necessary. Any student, faculty member, staff employee, contractor or visitor who feels he or she is the victim of harassment or other form of discrimination on the basis of race, color, religion, retaliation, sex (including sexual harassment), national origin, sexual orientation, age, physical or mental disability, veteran status, marital status, pregnancy status, or genetic information (GINA) should follow the grievance procedures outlined below. Consistent with George Mason University's duty to provide a work and academic environment free from unlawful harassment or discrimination, the university reserves the right to investigate any allegation of harassment or discrimination upon receipt of sufficient evidence to sustain such claims.

Retaliation

CDE 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 against an individual as a result of a complaint being filed or after an individual has cooperated with an investigative process. Retaliation is prohibited whether or not the Reporting Party prevails in the original charge. No agent, employee or student of the university may harass, coerce, intimidate, or discriminate

against an individual who has filed an Equal Opportunity complaint or participated in the Equal Opportunity complaint resolution process. Charges of retaliation will be treated as separate and distinct from the original charges and allegations, and will be investigated by CDE. Those in a supervisory position must monitor the academic or work environment to ensure that it is free from retaliation.

III. Filing Process

Complaints

If a member of the George Mason University community believes that he or she has been the victim of discrimination or discriminatory harassment or has information about discrimination/harassment in the university community, he or she may promptly report, without fear of reprisal, the facts of the incident and the name(s) of the individual(s) involved to CDE, located on the Fairfax Campus, Aquia Building, Suite 373. They may also email the office at cde@gmu.edu, or call the office at (703) 993-8730. Alternatively, a member of the university community may report the situation to his or her immediate supervisor, department head, or Dean, who will immediately notify CDE of the report. Supervisors must immediately report any complaints they receive or incidents of alleged harassment or discrimination they witness to the Office of Compliance, Diversity and Ethics.

A complaint should be filed within 180 calendar days of the most recent incident. The university will consider requests to extend this period where the Reporting Party can show he or she needed additional time due to circumstances beyond his or her control, or a pattern of ongoing discriminatory behavior. All complaints of discrimination and harassment will be treated in the strictest confidence possible under the particular circumstances.

The Reporting Party will meet with a representative from Compliance, Diversity and Ethics who will make a threshold determination as to whether, assuming the complete veracity of the allegation(s) contained in the complaint, the actions potentially constitute a violation of university policy. This threshold determination will be made within 10 business days of the filing of the complaint. Where appropriate, CDE may conduct a preliminary inquiry to determine whether a full investigation is required. If the threshold determination indicates that the allegation(s) in the complaint do not constitute a violation of university policy, either with or without a preliminary investigation, the reporting party will be notified that no further action will be taken with regard to the complaint. If the threshold determination indicates that action is warranted, the representative will discuss options (informal, formal) for proceeding, and CDE will notify both parties that such decided upon proceeding is under way. The Responding Party (the individual accused of discrimination) will be notified of the complaint within ten (10) working days after it is filed.

Options

Informal. Discuss allegations and concerns with Responding Party (the accused) and attempt to resolve the situation. The Responding Party is reminded that George Mason University expects all to adhere to our equal opportunity policies. Responding Party is put on notice that behavior has been questioned, and informal resolution is sought, if possible. CDE reserves the right to

pursue a formal investigation in to any allegations brought forth during the informal process should those allegations be indicative of a serious or continuing violation of the equal opportunity policy.

Formal. A full investigation is conducted by CDE complete with interviews of the Reporting Party, the Responding Party, and any material witnesses identified, as well as a review of any relevant documentation. The Reporting Party and the Responding Party will be kept apprised of the progress of the investigation and will be given the opportunity to provide any additional relevant information to the investigator, including the names of additional witnesses to contact and/or additional documents to review before the investigation is closed. At any time before the conclusion of the investigation, the appropriate supervisor to which the Responding Party is assigned may take interim emergency action until the conclusion of the investigation.

At the conclusion of its investigation CDE will issue a final written determination. The final written determination will state whether, based on CDE's investigation, there was a violation of this policy. The final determination will be shared with the Reporting Party, the Responding Party, and the appropriate supervisor. A copy of the written determination may be provided to Human Resources and other pertinent university officials as necessary to ensure proper resolution and follow-up regarding the matter. CDE's involvement in the matter concludes when a final determination is made.

The investigator's findings of fact will be made using the "preponderance of the evidence" standard. Under this standard, individuals are presumed not to have engaged in the alleged conduct unless a "preponderance of the evidence" supports a finding that the conduct occurred. This "preponderance of the evidence" standard requires that the evidence supporting each finding be more convincing than the evidence offered in opposition to it.

If the investigation finds that discrimination or harassment occurred, the university will determine appropriate corrective action, up to and including dismissal. The university may also take corrective action if no discrimination or harassment is found, but Responding Party is found to have engaged in inappropriate workplace behavior.

The Responding Party's appropriate supervisor, Human Resources, or any other pertinent university official shall promptly notify CDE of any corrective action imposed, if any.

Sanctions imposed on those individuals who have been found to be in violation of the university's Equal Opportunity Policy or its Discriminatory Harassment Policy shall be commensurate with the severity and/or frequency of the conduct, and shall be adequate and sufficient to prevent such conduct in the future.

Corrective actions may include a directive to stop any ongoing discrimination, harassment, or retaliation; disciplinary or other corrective action against the Responding Party or others; relief for the Reporting Party to remedy the effects of the discrimination, harassment or retaliation; and any other action considered necessary to ensure that this or similar conduct will not happen again.

Appeal. A finding may be appealed in writing to the Vice President of Compliance, Diversity and Ethics in CDE by either party within 10 working days of receipt of CDE's determination. A party may appeal a decision based on discovery of new evidence previously unavailable or a

significant irregularity in the procedural process which could affect the outcome of finding. The appellant should be as specific as possible in setting out basis for appeal; general dissatisfaction with the decision will not be sufficient. The determination of the VP/CDE is final.

At any time, prior to filing a charge, or while a complaint proceeding is in progress, a Reporting Party may file their complaint with the appropriate external agencies, such as the Department of Education Office of Civil Rights (OCR) or the Equal Employment Opportunity Commission (EEOC), within applicable time limits. In addition, any person who is dissatisfied with GMU's internal procedures utilized for handling complaints, or who is dissatisfied with the result of the investigation or the sanctions imposed, may seek redress through the EEOC, to the extent allowed by law. The Reporting Party should be aware that filing a complaint with CDE or other university resources does not extend or postpone the deadline for filing with external agencies. In the event that a complaint is filed with an external agency or court, the university reserves the right to determine, at its discretion, whether the university's internal complaint resolution procedure should be discontinued or continued separately.

Time Line for Investigation Process

CDE will complete its investigations as expeditiously as possible. The investigation shall normally be completed within 45 working days from the filing of a formal complaint, including notification of the parties of the outcome of the investigation. In extraordinary circumstances, CDE reserves the right to extend this time to a reasonable period. All parties will be notified if such an extension is necessary. Many factors can interfere with an investigative fact-finder's commitment to complete a determination promptly, including unavailability of witnesses or the complexity of the issues involved. CDE will maintain contact with the Reporting Party and Responding Party throughout the course of the investigation to keep them up to date on the process.

IV. Confidentiality

CDE takes any allegation of discrimination, harassment, and/or retaliation seriously and is committed to protecting the integrity of the investigation process including confidentiality and the due process rights of all individuals. Note that all those involved (the Responding Party, the Reporting Party, and the witnesses) have privacy interests. Therefore, outside the scope of the investigation, all parties are cautioned not to publicize or divulge the nature of the proceedings, or the identity of those involved.

V. Right to Advisor

The Reporting Party and the Responding Party each have the right to bring an advisor to the investigative meeting. If either party chooses to exercise this option, he or she shall submit the name of the advisor in writing to CDE at least 72 hours prior to the meeting. If either the Reporting Party or the Responding Party's advisor is a person degreed or qualified in law, CDE must be notified.

VI. Responsibilities and Jurisdiction of Compliance, Diversity and Ethics

Consistent with federal and state laws and university policies related to nondiscrimination, CDE investigates complaints of unlawful discrimination and/or harassment on the basis of race, color, religion, sex, national origin, sexual orientation, age, marital status, pregnancy status, genetic information, physical or mental disability, or veteran status. CDE investigates such complaints of discrimination and/or harassment at George Mason University and renders a determination following such investigations.