PROCEDURE FOR THE RESOLUTION OF DISCRIMINATION COMPLAINTS

Policy Statement

Any University of Southern Mississippi employee, student, applicant for admission or employment, or other participant in the University’s programs or activities who believes s/he has been unlawfully discriminated against on the basis of age, sex, sexual orientation, disability, pregnancy, gender identity, genetic information, religion, race, color, national origin, and/or veteran status by a university employee may file a complaint with the Office of Affirmative Action/Equal Employment Opportunity (AA/EEO), in accordance with the procedures described below.

Students or employees who wish to file complaints against students should contact the Office of the Dean of Students.

Federal law, as well as University policy, prohibits any form of retaliation against a person who files a discrimination complaint in good faith.

Reason for Policy/Purpose

This policy is required for the effective communication of University policy regarding discrimination complaint procedures.

Who Needs to Know This Policy

All members of The University of Southern Mississippi community.

Website Address for this Policy

www.usm.edu/institutional-policies/policy-pres-aa-004
Definitions

Reasonable amount of time

Policy/Procedures


CONFIDENTIALITY: Complaints filed with the University will remain confidential to the extent allowed by law, while also allowing for a complete investigation. University personnel involved in or responsible for any aspect of a complaint, including the appeals process, shall maintain confidentiality throughout the processing of the complaint. All persons involved in the complaint process are expected to maintain confidentiality, both during the process and afterward.

RETALIATION: The University seeks to create an environment where students and employees are free to explore the possible violation of their civil rights without fear of reprisal. Retaliation is illegal and will not be tolerated by the University. Similarly, persons who use this process to bring bad faith allegations against an employee may be subject to disciplinary action.

Employees and students are encouraged, where feasible, to reach an informal resolution to complaints through the administrative reporting structure of the academic or employment unit. However, if the complainant wishes to access a formal process instead, the following procedures apply:

Step 1: Complaints must be received in writing in the Office of Affirmative Action/Equal Employment Opportunity within a reasonable period of time from the most recently alleged discriminatory act. “Reasonable” will be defined as 30 calendar days from such alleged discriminatory act. (Note: at the discretion of the Office of AA/EEO, in certain situations complaints filed outside of this time limit may be investigated despite stated timelines.) Complaint forms may be obtained in the Office of AA/EEO, McLemore Hall 310 on the Hattiesburg campus. The written complaint must include the complainant’s name and signature, and must include a brief written description of the alleged discriminatory act(s), as well as the name(s) of the person(s) who allegedly are responsible for such act(s).

Step 2: The Office of AA/EEO will meet with the complainant and subsequently will determine if the written and verbal description of the alleged discriminatory act warrants further investigation into the allegations as presented. If it is determined that no potential violation of civil rights related
to University policy is being presented, the Office of AA/EEO will notify the complainant of such in writing within fifteen (15) working days of written receipt of the complaint. This notification will explain why the complaint does not state a possible violation of civil rights law or policy and may inform the complainant of other avenues of redress, as appropriate.

**Step 3:** If the Office of AA/EEO determines that the complaint as presented may involve a violation of civil rights related to University policy, the complainant and respondent will be notified in writing of such. If determined appropriate by the Office of AA/EEO, the complainant will be given the option to pursue mediation as resolution to his/her concerns. SEE “MEDIATION” BELOW.

If the nature of the complaint is such that mediation is inappropriate and/or the complainant or respondent declines mediation or if mediation fails, the director of AA/EEO or his/her designee will investigate the allegation(s). The director of the Office of AA/EEO will inform the following parties that a complaint has been filed and that an investigation will be conducted: the complainant, the respondent, the respondent’s immediate supervisor and department head, dean, vice president, and the president.

A typical investigation will involve meeting with the complainant, the respondent(s), and with other persons who may have knowledge relevant to the investigation. Upon completion of the investigation, the director of the Office of AA/EEO will issue a written report in which the findings of the investigation will indicate either sufficient or insufficient evidence to support the allegation(s). This determination will be based upon information obtained as a result of the investigation process. The complainant and the respondent will receive written notification of the findings. Written notification of the findings will also be sent to the administrators listed above.

In the event that there is a finding of a violation of University policy, the director of the Office of AA/EEO will recommend to the appropriate vice president that a directive be issued to stop the discriminatory behavior and make recommendations concerning disciplinary action against the respondent. Additionally, corrective action, when appropriate, will be recommended to eradicate the effect of the discriminatory behavior.

The vice president to whom the report is sent will issue written notification of disciplinary action within fifteen (15) working days of receipt of report from the Office of AA/EEO. Details of the disciplinary action will not be shared with the complainant, nor may the complainant appeal the disciplinary action itself. The respondent may, however, appeal the disciplinary action.

In the event that there is a finding of insufficient evidence of a violation of University policy, the director of the Office of AA/EEO will notify the complainant, respondent, and above named administrators of no finding of discrimination and the investigation will be closed.

**Step 4:** Should the complainant or the respondent wish to appeal the decision(s) of the Office of AA/EEO and/or the decision of the vice president made at Step 3, s/he may do so in writing to the Office of the President, within fifteen (15) working days from the date of receipt of written decisions made at Step 3. The president will appoint a panel and will name a panel convener. The
panel will be comprised of three employees, with at least one tenured faculty employee and one staff employee.

The complainant or respondent may request an appeal panel review based on any of the following grounds:

a. that the complaint procedure was not followed;

b. that new information not previously available or known is to be presented which could have had a material effect upon the findings;

c. that the investigation was conducted in an arbitrary or capricious manner.

The appellant will provide a written request to the Office of the President for an appeal, citing at least one of the bases listed above, within fifteen (15) working days from the date of receipt of the written decision made at Step 3. The appellant must provide a detailed written rationale for why s/he believes the appeal basis has been met. The President will appoint the panel as described above. The panel will determine if at least one of the grounds for appeal has been met. If its determination is that none of the grounds has been met, the appellant will be notified of such in writing.

If the panel determines that at least one of the grounds for appeal has been met, the panel convener will notify both the complainant and the respondent in writing that the appeal panel will meet and review the information provided by the appellant. The panel will share with the other party the information provided by the appellant. Both parties will be invited to present information to the panel, at a date decided upon by the panel convener. The panel may request involvement in the hearing from any member of the University whom it believes may have information pertinent to the appeal. These persons include the AA/EEO officer and any witnesses that either party may recommend to the panel. Witnesses are invited to participate at the discretion of the panel.

Hearing of the appeal panel will be conducted as follows:

1. Chair of the panel will invite appellant to give a brief overview of the reason(s) for appeal.

2. Panel members will be invited to question appellant.

3. Opposing party will be allowed to respond to ground(s) on which appellant appealed.

4. Panel members will be invited to question other party.

The appeal panel will reach a determination either supporting the findings and/or disciplinary action, or supporting the appeal of the appellant. Once the appeal panel has reached a determination, it will recommend, in writing, that the Office of the President reverse, amend or uphold the finding and/or the disciplinary action. The panel is empowered to make recommendations only. The panel will forward their findings and
any recommendations to the president for his review. Within fifteen (15) working days of receipt of the panel’s findings, the President will inform all involved parties of his decision in writing, based on input from the appeal panel. The decision of the President is final.

MEDIATION

Mediation is a process by which the University attempts to resolve complaints to the satisfaction of all involved parties without reaching a formal finding regarding a violation of the University’s non-discrimination policy. Mediation seeks to protect the confidentiality of all involved parties to the extent allowed by law. At any time during the mediation process, either party may choose to terminate the mediation and the complaint will then be investigated by the Office of AA/EEO per procedures listed above.

Generally, mediation will involve only the complainant, the respondent, and the mediator. If the complaint is successfully resolved through mediation, each party will sign a document that describes the mutually agreed-upon terms. Any deviation from the terms of the agreement allows either party the right to re-file formal charges with the Office of AA/EEO.

Review

The Director of Affirmative Action and Equal Employment Opportunity is responsible for the review of this policy every four years (or whenever circumstances require immediate review).

Forms/Instructions

Complaint forms may be obtained in the Office of AA/EEO, McLemore Hall 310, Hattiesburg Campus.

Appendices

N/A

Related Information

N/A

History

Amendments: Month, Day, Year – summary of changes

11/01/11: Formatted for Institutional Policies website.
02/19/13: Formatted for template. Minor editing of punctuation and word usage throughout.
05/20/13: Updated.
02/21/17: Added sexual orientation, pregnancy, gender identity and genetic information so as to be consistent with the University non-discrimination policy; Changed address of Office of AA/EEO; Added clarifying language for appeal ground that new information presented on appeal must not have been previously available or known; Minor editing of punctuation throughout.
Authorization

PROCEDURE FOR THE RESOLUTION OF DISCRIMINATION COMPLAINTS
PRES-AA-004

RECOMMENDED BY:

Responsible University Administrator

Date

REVIEWED BY:

Director of Compliance and Ethics

Date

Office of General Counsel

Date

APPROVED:

President

Date
Authorization

PROCEDURE FOR THE RESOLUTION OF DISCRIMINATION COMPLAINTS
PRES-AA-004

RECOMMENDED BY:

Responsible University Administrator

Date

REVIEWED BY:

[Signature]
Director of Compliance and Ethics

2/23/17
Date

Office of General Counsel

Date

APPROVED:

President

Date