



## Policy 1201 Grievance Procedure

### I. Scope

This procedure applies to all reports and complaints of Prohibited Discrimination under Policy 1201, including disparate treatment discrimination, hostile environment discrimination, and retaliation made to the Office for Diversity, Equity, and Inclusion.<sup>1</sup>

Matters alleging sexual misconduct are addressed under Policy 1202 and its corresponding procedures. Therefore, this procedure does not apply to reports and complaints of conduct that constitute Prohibited Conduct under Policy 1202 (i.e., sexual assault, dating violence, domestic violence, stalking, hostile environment or quid pro quo sexual harassment, sexual exploitation, complicity in Policy 1202 Prohibited Conduct, or retaliation related to a Policy 1202 matter). However, this procedure may be applied to reports or complaints that allege disparate treatment discrimination or other discrimination not covered by Policy 1202 based on sex, pregnancy status, sexual orientation, or gender identity/expression. DEI shall determine which procedure(s) are applicable to a report or complaint.

### II. Accessibility statement

The Office for Diversity, Equity, and Inclusion is committed to ensuring that all members of the Mason Community have equal access to the information contained in these procedures. It is the practice of George Mason University to take reasonable steps to ensure that individuals with disabilities and persons with limited English proficiency have meaningful access and an equal opportunity to participate in our services, activities, programs, and other benefits. To make certain that all individuals can communicate fully with the University, either verbally or in writing, Mason uses United Language Group to provide translation and interpretation services as needed. Community members may contact the Office for Diversity, Equity, and Inclusion at [masoneo@gmu.edu](mailto:masoneo@gmu.edu) to request an accommodation or assistance.

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<sup>1</sup> Contractors, vendors or visitors who are the Respondents are not subject to the corrective action and sanctions contained herein, but may be subject to the terms in applicable governing agreements or policies.

### **III. Definitions**

Relevant definitions related to these Grievance Procedures are contained within University Policy 1201: Non-Discrimination.

### **IV. Responsibilities and Jurisdiction of the Office for Diversity, Equity, and Inclusion**

The Office for Diversity, Equity, and Inclusion serves as an impartial resource for the resolution of concerns and complaints under this procedure. Therefore, the Office for Diversity, Equity, and Inclusion does not serve as an advocate for either the Complainant or the Respondent. The Office for Diversity, Equity, and Inclusion does not have oversight of academic decisions, i.e., grade appeals or tuition reimbursement.

The EO Associate Director within the Office for Diversity, Equity, and Inclusion (or designee) is responsible for coordinating the series of actions described in these procedures, as well as for maintaining a tracking system of reports and complaints received. The EO Associate Director (or designee) may also work with individual college or unit Diversity Officers to fulfill their responsibilities under these procedures. Office for Diversity, Equity, and Inclusion leadership retains the discretion to interpret these procedures as needed to execute the procedures outlined within.

As a part of the Office for Diversity, Equity, and Inclusion's responsibilities, staff will explain the following to all identified parties that interact with the office:

- the processes (informal and formal) available to address and resolve allegations of violations of Policy 1201, including the opportunity for both the Complainant and Respondent to review and respond to the allegations, identify witnesses, and provide evidence.
- the right to have a personal advisor present.
- that retaliation for reporting alleged discrimination or unlawful harassment, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be reported.

### **V. Confidentiality**

The Office for Diversity, Equity, and Inclusion takes any allegation of violations of Policy 1201 seriously and is committed to protecting the integrity of the investigation process including confidentiality and the rights of all individuals.

Every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate Prohibited Discrimination or

Retaliation, prevent its recurrence, and address its effects. Information related to a report or complaint under this policy will only be shared with those individuals who need to know in order to assist in the active review, investigation, or resolution of the concern.

If the Complainant requests confidentiality, anonymity, or that an investigation not be conducted, the University may be limited in the actions it is able to take and its ability to respond while respecting the request. Further, the Office for Diversity, Equity, and Inclusion may be limited in its ability to investigate an anonymous complaint unless sufficient information is provided to enable the Office for Diversity, Equity, and Inclusion to conduct a meaningful and fair investigation. The Office for Diversity, Equity, and Inclusion will take all reasonable steps to respond to the complaint consistent with the request.

In certain circumstances, the University may proceed with an investigation against the confidentiality request by a Complainant. These circumstances include, but are not limited to, situations where the alleged Prohibited Discrimination or Retaliation exhibits a pattern of behaviors and/or a situation in which there is a physical danger to any member of the University community.

## **VI. Resources and Communication**

Any Mason community member who believes they have been subjected to discrimination or retaliation in violation of Policy 1201 may contact the Office for Diversity, Equity, and Inclusion to inquire about resources and supportive measures that may be available through the university such as counseling, medical services, and academic assistance, and to learn about the process for reporting, investigating, and resolving complaints. The opportunity to inquire about resources and options is available to any community member, regardless of eligibility to file a complaint. Likewise, resources and supportive measures may be available regardless of whether a complaint is filed.

Unless otherwise provided by this procedure or agreed upon in the process, the Office for Diversity, Equity, and Inclusion will disseminate notices and other communications using official University email addresses. Additionally, meetings and interviews may be conducted in person or virtually.

The university is committed to providing reasonable accommodations for parties or witnesses with documented disabilities. Individuals are encouraged to request reasonable accommodations as early in the process as possible to identify and plan for specific accommodations.

Students who wish to have a third party participate in Office for Diversity, Equity, and Inclusion engagements or receive information about their complaint must obtain an Office for Diversity, Equity, and Inclusion FERPA authorization form. The form must identify the third party and specify the level of access and length of time for the authorization.

Mason community members who engage with the Office for Diversity, Equity, and Inclusion on matters related to this procedure are expected to communicate with respect and civility in accordance with Department of Human Resources Policy 2.35: Civility in the Workplace and University Policy 2208: Violence Prevention. Employees and students that exhibit behaviors contrary to this may be subject to applicable policies that govern conduct and professionalism in the work and school environment.

## **VII. Right to Advisor**

The Complainant and the Respondent have the right to have an advisor accompany them to any meeting during the process. If either Party chooses to exercise this option, the Office for Diversity, Equity, and Inclusion asks that the name and relationship of the advisor (e.g., legal counsel), be submitted in writing, at least 72 business hours prior to the meeting.

The role of the advisor is to support the Party and advise them on the process. The advisor may not speak on behalf of the Party, such as answering questions during interviews. Advisors are expected to interact with the Office for Diversity, Equity, and Inclusion and others involved in the process with respect and civility. Advisors who fail to comply with the requirements of this procedure may be barred from serving as an advisor in the matter and/or in the future. The same individual may not serve as the advisor for more than one party, including more than one complainant or respondent.

## **VIII. Standard of Proof**

The university applies the preponderance of the evidence standard when determining whether a policy violation has occurred. "Preponderance of the evidence" means that it is more likely than not that a policy violation occurred. The investigator's findings of fact will be made using the "preponderance" 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" standard requires that the information supporting each finding be more convincing than the information in opposition to it.

## **IX. Process for Resolving and Investigating Reports**

### **A. Reporting**

To effectively track discrimination, unlawful harassment, and/or retaliation, community

members are asked to use the website at <https://diversity.gmu.edu> to make reports to the Office for Diversity, Equity, and Inclusion. Additionally, the Office for Diversity, Equity, and Inclusion accepts reports and complaints made by e-mail at [MasonEO@gmu.edu](mailto:MasonEO@gmu.edu), or by phone at (703) 993-8730. Anonymous reports may also be filed by using the report form which can be submitted online or hand delivered to the Office for Diversity, Equity, and Inclusion in the Aquia Building, Suite 373 on the Fairfax Campus or, on Mondays and Thursdays in Van Metre Hall, Room 222, on the Mason Square campus. Further, a member of the university community may report incidents of alleged discrimination to an administrator, supervisor, or an individual performing instructional or academic advising duties who must immediately inform the Office for Diversity, Equity, and Inclusion of such reports or incidents.

There is no time limit on reporting allegations that may violate Policy 1201. However, parties should be cognizant that timely reporting may better enable the Office for Diversity, Equity, and Inclusion to respond to and investigate (if warranted) allegations of violations of Policy 1201. The Office for Diversity, Equity, and Inclusion reserves the right to dismiss complaints if there are factors, such as timeliness of reporting (e.g. evidence not being available due to when the report is filed), that prevent a full and complete investigation of alleged Prohibited Discrimination or Retaliation (see section IX (E), below for more information on dismissal of complaints).

A report filed by a Complainant who has no further connection with the University, or against a Respondent who has no further connection with the University, may be dismissed by the Office for Diversity, Equity, and Inclusion if the University has no means to take appropriate steps to eliminate the Prohibited Discrimination or Retaliation, prevent its recurrence, or address its effects.

Filing a report with the Office for Diversity, Equity, and Inclusion does not have the force and effect of stopping or reversing a contested matter that is currently underway, i.e., grade appeals, academic suspensions, or any procedures concerning academics, financial aid, housing, or personnel actions. Complainants should not expect that decisions will be reversed by initiating the DEI process.

## **B. Initial Contact with Complainant**

The Office for Diversity, Equity, and Inclusion will contact the Complainant, typically within 48 hours via Mason email, to offer an Information Session. Information sessions may be held virtually or in-person.<sup>2</sup>

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<sup>2</sup> The Complainant is the individual allegedly discriminated or retaliated against. In situations where the Complainant is not the reporting party, the Office for Diversity, Equity, and Inclusion will respond to the reporting party's report via email.

During the Information Session, the Office for Diversity, Equity, and Inclusion will provide information about the following:

- the informal and formal processes for addressing complaints of Policy 1201 violations.
- Applicable Mason Policy, these Equal Opportunity/Affirmative Action Grievance Procedures, and key definitions.
- the role of Mason resources and offices of resolution (such as Human Resources, Ombudsperson, Office of Disability Services, the Center for Culture, Empowerment, and Engagement)

The Office for Diversity, Equity, and Inclusion will seek to obtain information about the following:

- the details regarding the alleged discriminatory or retaliatory incident(s) or event(s), including information about the Respondent.
- the resulting harm and adverse impact of the situation (i.e., denial of participation or benefits).
- the reason(s) the Complainant believes the incident or event was based on a protected category or activity.
- Complainant's intent to engage the Office for Diversity, Equity, and Inclusion in the matter (i.e., seeking information only, informal resolution, formal resolution).

### **C. Informal Resolution Process**

The Office for Diversity, Equity, and Inclusion has adopted an informal resolution process through which complaints may be resolved, often through means that include communication or mediated discussions. Complainants may request to use the informal process after discussing options with the Office for Diversity, Equity, and Inclusion.

During the informal process, the Office for Diversity, Equity, and Inclusion will seek to obtain details from the involved parties about the alleged incident(s), potential resolutions, and any legitimate nondiscriminatory reasons offered as explanation. After obtaining more details, the Office for Diversity, Equity, and Inclusion will assist with identifying an appropriate informal resolution method with the Complainant and will solicit consent from the Complainant to discuss the matter with identified parties before taking action. During the informal process, the Office for Diversity, Equity, and Inclusion will take action to facilitate prompt and effective resolution. This requires that all parties remain meaningfully engaged to resolve the concerns. The Office for

Diversity, Equity, and Inclusion reserves the right to cease engagement and close reports due to lack of responsiveness on behalf of a Complainant. This will be done only after sufficient contact attempts have been made to the Complainant and notice has been provided that the report will be closed if the Complainant does not contact the Office for Diversity, Equity, and Inclusion in a reasonable amount of time.

Options for informal resolution may include connecting the Complainant with existing university processes to resolve the concern, arranging educational programs for individuals or departments, mediating between the parties, or coordinating with third parties for assistance (i.e., employee relations, ombudsperson). Some informal resolution options will require the consent of the Respondent (e.g., mediation). The informal process is not a formal investigation, and the presumption is that no policy violation has occurred. As such, the process will not yield a finding as to whether discrimination or retaliation has occurred or not.

Complainants who opt for an informal process may choose to initiate a formal process at any time prior to the conclusion of the informal process.

#### **D. Initiating a Formal Process**

A Complainant may request that the Office for Diversity, Equity, and Inclusion initiate a formal investigation of alleged Policy violation(s) identified in the report. To make this request, Complainants must make this request in writing to the Office for Diversity, Equity, and Inclusion, by email to [MasonEO@gmu.edu](mailto:MasonEO@gmu.edu) or other written means.

Upon receipt of the request to initiate a formal investigation, the Office for Diversity, Equity, and Inclusion will confirm with the Complainant the allegations in the report and may seek additional information or clarification to confirm the specific actions that the Complainant is alleging constitute policy violations and is requesting be investigated. Following any consultation and prior to proceeding with the formal process, the Office for Diversity, Equity, and Inclusion will provide the Complainant with a document listing the alleged conduct to be investigated and must receive written confirmation from the complainant that the document accurately describes the alleged conduct the Complainant is asking to be investigated. This document will be considered the Formal Complaint.

At any point in a process, prior to the full and complete resolution of the Formal Process, the Complainant may request to (1) amend the Formal Complaint or (2) withdraw their Formal Complaint and request that no further process ensue. If amendment of the Formal Complaint results in new conduct being investigated after notice has already been provided to the Respondent, new notice must be given to the Respondent. If the Complainant opts to withdraw their Formal Complaint, the University may decide to

continue the investigation or to take other steps to address potential policy violations and to ensure compliance with state and federal laws.

### **E. Preliminary Inquiry**

The Office for Diversity, Equity, and Inclusion will conduct a preliminary inquiry to determine whether the conduct alleged in the Formal Complaint involves an alleged violation of university policy under its purview. If it is determined that the Office for Diversity, Equity, and Inclusion does not have jurisdiction, a referral will be made to the appropriate on-campus or off-campus resources to address the issues.

To assess for potential policy violation(s), the Office for Diversity, Equity, and Inclusion will assume that the facts provided in the Formal Complaint are truthful, and that an adverse action resulted from the alleged conduct. In completing the Preliminary Inquiry, the Office for Diversity, Equity, and Inclusion may collect additional information or interviews to determine if the matter warrants an investigation. If applicable, the Office for Diversity, Equity, and Inclusion may have obtained this information during the informal resolution process.

In the following situations, the Office for Diversity, Equity, and Inclusion may dismiss allegations in a Formal Complaint at the Preliminary Inquiry stage:

- The alleged conduct, even if true, would not constitute discrimination, unlawful harassment, or retaliation as defined by University policy;
- The Respondent is not a member of the university community or was not a former member of the university community at the time of the alleged events;
- The Complainant is not a member of the university community or was not a former member of the university community at the time of the alleged events;
- The alleged conduct did not occur (1) on university-owned, leased, or controlled property or (2) in the context of university work, class, research, programs, events, or other activities, or, if it did not occur in (1) or (2), does not have an impact on the Complainant's ability to participate in the programs or activities of the University, including the working or learning environment.

If the Preliminary Inquiry finds that some or all of the allegations in the Formal Complaint must be dismissed, the Complainant will be notified of the dismissal and an explanation of the dismissal will be provided.

The dismissal of some or all of the allegations in the Formal Complaint at the



Preliminary Inquiry stage may be appealed. The following are the valid grounds for an appeal at this stage:

- Procedural irregularity that affected the decision to dismiss some or part of the allegations in the Formal Complaint;
- The discovery of new evidence that could affect the outcome of the determination that was not reasonably available at the time of the determination to dismiss.
- The Associate Director of EO or Investigator had a conflict of interest or bias for or against complainants or respondents that affected the decision to dismiss some or all of the allegations in the formal complaint.

The following is the appeal procedure for appealing the dismissal of some or all allegations at the Preliminary Inquiry stage:

- Within five (5) business days of receipt of the Preliminary Inquiry determination, the Complainant must provide written notice of their appeal. This notice shall contain the ground(s) for appeal, any rationale, and/or any additional information for the appeal officer to consider.
- The written notice must be sent via email to [MasonEO@gmu.edu](mailto:MasonEO@gmu.edu).
- Upon receipt of an appeal, the Assistant Vice President for Equity and Access Services, or designee, will conduct a review of the appeal and determine whether to affirm the determination to dismiss some or all of the allegations or refer the matter back to the Associate Director of EO or Investigator for further process<sup>3</sup>.
- The Assistant Vice President for Equity and Access Services, or designee, will provide the Complainant a written determination of the appeal as soon as practicable.

A Complainant cannot file another report with issues identical to what was previously processed in a Preliminary Inquiry review. If the Complainant obtains new information, not previously available, the Complainant may file a new report, and must explain why the information was not available in the previous complaint.

If the Preliminary Inquiry indicates that an investigation is required, the Office for Diversity, Equity, and Inclusion shall initiate a formal investigation and an investigator will be assigned to the matter.

## **F. Notice of Investigation**

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<sup>3</sup> This may include an informal resolution and/or formal investigation of the allegations.

Upon initiating the formal investigation, the Office for Diversity, Equity, and Inclusion will simultaneously notify in writing both the Complainant and Respondent that said investigation shall begin. The written notification (“Notice of Investigation”) will contain the following information:

- The specific policy violations being investigated;
- Sufficient details as to apprise the Respondent of the allegations being investigated (this includes a copy of the Formal Complaint);
- A copy of these procedures;
- The name of the investigator; and
- An invitation to contact the Office for Diversity, Equity, and Inclusion for an information session regarding the process.

If after receiving the Notice of Investigation either party believes that the investigator has a bias or conflict of interest that would prevent them from being impartial, the party must notify the Office for Diversity, Equity, and Inclusion within 3 business days explaining the reasons why the party believes the investigator should be disqualified. The Office for Diversity, Equity, and Inclusion will make the final decision whether to disqualify an investigator and appoint a new one. If during the course of an investigation a party learns new information that leads them to believe that the investigator should be disqualified, they must notify the Office for Diversity, Equity, and Inclusion within 3 business days. The Office for Diversity, Equity, and Inclusion will make the final decision whether to disqualify the investigator and appoint a new one.

### **G. Formal Investigations**

A formal investigation is conducted by a trained investigator. The investigator cannot compel participation by parties or witnesses. The parties will be given the opportunity to interview with the investigator and 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 concluded.

Complainants can amend the formal complaint, in writing, at any time prior to the conclusion of the investigation to include issues or claims that are similar to or related to the original complaint. Any new allegations are subject to the preliminary review process described above. If the Office for Diversity, Equity, and Inclusion decides to proceed with an investigation of the additional allegations, a revised Notice of Investigation listing the additional allegations will be provided to the parties.

The assigned investigator will serve as an unbiased fact gatherer, identifying and securing information through interviews of witnesses and review of written records, including official records, to decide based on a preponderance of the evidence whether

the alleged conduct occurred and if it violated university policy. Each party or witness interviewed will be provided a summary of the interview by the Investigator. At the option of the Investigator and party or witness, interviews may be recorded to aid the Investigator in preparing the interview summary. Prior to an interview, the Investigator will contact the party or witness to ascertain whether they would like the interview to be recorded. If both the Investigator and party or witness agree to record the interview, the Investigator will record the interview and use the recording to complete the interview summary. The individual interviewed has the opportunity to provide corrections to their interview summary and, if the interview was recorded, may request to listen to the recording of their interview as part of their review of the interview summary. Interviewed parties and witnesses will be provided five (5) business days to provide any corrections to the Investigator.<sup>4</sup> The investigator will determine the witnesses to be interviewed during the investigation at their discretion by determining whether the potential witness can offer relevant and material information. Additionally, the investigator will determine the documents necessary to develop a factual record. When an investigation involves a request for student record(s), the investigator maintains a legitimate educational interest to review the education record(s) to fulfill their professional responsibility. When possible, the Office for Diversity, Equity, and Inclusion requests that all documents be provided in an accessible format, meaning that the documents provided should be accessible to people with disabilities. If documents are received that are not in an accessible format, the Office for Diversity, Equity, and Inclusion has the authority to share documents with Mason's Assistive Technology Initiative ("ATI") team for the purposes of converting the documents into an accessible format.

Evidence that the Investigator will consider includes, but is not limited to, statements or actions made by the Respondent(s) that may indicate motivation or intent that is based on actual or perceived membership in or association with groups that share a protected category (i.e., race, sex, or national origin), other circumstances and behaviors surrounding the statements or actions, and whether there is a legitimate, non-discriminatory (and non-pretextual) reason for the alleged conduct. For example:

In a case alleging discrimination or harassment on the basis of sexual identity, MasonEO will consider whether the alleged conduct includes the usage of sex-based stereotypes to assess whether conduct presented with discriminatory intent.

- In a case alleging discrimination or harassment on the basis of race, MasonEO will consider the alleged usage of racial slurs or racial epithets to assess whether conduct presented with discriminatory intent.

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<sup>4</sup> In the event that a party or witness requests to review the recording of the interview, they must notify the Investigator within the five (5) business day window provided by the investigator. The party will have ten (10) business days from request to review the recordings by coming to the DEI Office, or to make other arrangements, to review the recording. The party is then provided five (5) business days to provide corrections.

- In a case alleging anti-Semitic conduct, MasonEO will consider whether the alleged conduct falls within the International Holocaust Remembrance Alliance (“IHRA”) definition or examples of anti-Semitism. Conduct that falls within the IHRA definition or examples of anti-Semitism will be used as evidence of possible discriminatory intent, in alignment with U.S. Executive Order 13899 and Chapter 471 of the 2023 Virginia Acts of Assembly.
- In a case alleging alleged discrimination and/or harassment on the basis of shared ancestry, MasonEO will consider the alleged usage of statements or actions that are based on stereotypes or hatred of a particular shared ancestry group to assess whether conduct presented with discriminatory intent.

In all cases, the Investigator will evaluate evidence without diminishing or infringing upon any right protected under the Constitution and laws of the United States and the Commonwealth of Virginia.

The investigator will not discuss or disclose the existence of an investigation, or any information related to the investigation with anyone except those with a need-to-know in order to conduct the investigative process. During investigations, the investigator may disclose information and documents to parties or other witnesses when the investigator determines that the disclosure of the information or documents is necessary to obtain information from the witness. This is most often the case when investigators must reveal information from statements to explain the claims in a complaint or to explain the articulated reason for an action to develop evidence to corroborate that reason.

Prior to the conclusion of the investigation, the investigator will provide each party with a packet containing all of the relevant information gathered during the investigation, including any inculpatory (evidence supporting that the Respondent is responsible) or exculpatory (evidence supporting that the Respondent is not responsible) evidence.<sup>5</sup> The parties will have ten (10) business days to provide, in writing, a response to the information packet and to provide any additional information, documents, or potential witness. The investigator may also meet with each party, separately, to review the information obtained during the investigation. The investigator may, but is not required to, conduct additional investigation following this review process. If additional investigation is conducted, the investigator will provide any new evidence collected during this additional investigation period to the parties who will again have 10 business days to provide a response.

At the conclusion of its investigation, the investigator will issue a final report that summarizes the evidence collected and states the investigators conclusions including

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<sup>5</sup> For interviews, the packet will contain summaries of the interviews prepared by the investigator.

whether a violation of university policy occurred. The report will be provided to both parties at the same time. The report may be redacted to ensure compliance with FERPA and/or other privacy laws.

## **X. Appeal**

A finding from a formal investigation may be appealed by either party, in writing via email to [MasonEO@gmu.edu](mailto:MasonEO@gmu.edu) within fifteen (15) calendar days from receipt of the determination. Upon receipt of a timely appeal, the case will be referred to the Assistant Vice President for Equity and Access Services (AVPEAS), or designee. The AVPEAS will designate an Appeal Officer to complete the Appeal Determination. Appeal Officers are external experts that are qualified to conduct Appeals.

A party's appeal of a finding from a formal investigation must be based only on

1. the discovery of new information that was not previously available<sup>6</sup> that would materially impact the outcome;
2. an irregularity in the procedural process that materially affected the outcome; or
3. the Associate Director of EO or Investigator, had a conflict of interest or bias for or against complainants or respondents generally, or either Party that affected the determination.

The appealing party may choose more than one of these grounds of appeal.

Appellants should be as specific as possible in setting out a basis for appeal; general dissatisfaction with the outcome will not be sufficient.

Should a party appeal the determination, the Office for Diversity, Equity, and Inclusion will contact the non-appealing party and provide them with a copy of the appeal. The non-appealing party will have five (5) business days after being provided a copy of the Appeal to review the Appeal and provide any response. This response is optional and if submitted in a timely manner, the response will be included in the materials sent to the Appeal Officer.

Upon receipt of the appeal, the Appeal Officer will thoroughly review the appeal, the response, the investigative file, and any other relevant materials. The Appeal Officer may also request information from the Office for Diversity, Equity, and Inclusion, as necessary (for example, regarding the process used if a procedural irregularity is

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<sup>6</sup> Information is considered not previously available if it was not known to the appealing party or reasonably available to them prior to the conclusion of the investigation. A party or witness choosing not to participate in the investigation is not a basis for appeal.

alleged).

The Appeal Officer may affirm the determination of the investigation, remand the matter back to the investigator for further investigation, or provide other instructions to remedy the ground(s) on appeal. The Appeal Officer will issue an appeal determination, which will be provided to both parties at the same time.

Matters designated for remand will be sent to the investigator with the Appeals Officer's recommendations, justification, and clear directions to ensure adequate supplementation of the investigative file. The Office for Diversity, Equity, and Inclusion may assign the case to a new investigator. The investigator will conduct further investigation as necessary following the process described above (including the evidence review by the parties) and prepare a new investigation report. Either party may appeal the new investigation report per the appeal procedures above.

Following the conclusion of an appeal, or if no appeal is filed within the required time, the determination is final, and no further appeal is permitted.

## **XI. Corrective Action**

If the investigation finds that a policy violation occurred, by a preponderance of the evidence, the university will determine appropriate corrective action, up to and including dismissal, according to the applicable policies and employee handbooks.

If the Respondent is a student, the investigation report will be provided to the Director of Student Conduct (or designee) who will determine the corrective actions in consultation with the Office for Diversity, Equity, and Inclusion. The Director of Student Conduct (or designee) will inform the Respondent of the corrective actions imposed.

If the Respondent is an employee, the investigation report will be provided the Respondent's supervisor, the Director of Employee Relations, and any other university official determined by the Office for Diversity, Equity, and Inclusion and Human Resources to be necessary to determine the appropriate corrective action. The university will determine the appropriate corrective action and inform the Respondent of the corrective action imposed.

Corrective actions may include a directive to stop any ongoing discrimination, harassment, or retaliation; disciplinary or other corrective action against the Respondent; relief for the Complainant 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.

The Director of Student Conduct, Respondent's supervisor, Human Resources, or any other pertinent university official, as applicable, shall promptly notify the Office for Diversity,

Equity, and Inclusion of any corrective action imposed, if any. The university may also take corrective action if no Policy 1201 violation is found but the Office for Diversity Equity, and Inclusion's investigation reveals possible violations of other university policies. In those instances, the Office for Diversity, Equity, and Inclusion will forward all pertinent information to Human Resources and/or the relevant department for appropriate follow up pursuant to its procedures.

## **XII. Interim Action**

At any time prior to the conclusion of the investigation, the university may take interim actions in response to alleged policy violations. For employees, interim action will be determined by the university, in consultation with the Office for Diversity, Equity, and Inclusion and Human Resources, pursuant to university policy and employee handbooks. For students, the Office for Diversity, Equity, and Inclusion will consult with an appropriate administrator and/or the Office of Student Conduct to determine any interim action.

## **XIII. Alternative Avenues for Addressing Discrimination, Harassment or Retaliation**

Students

Students and applicants for admission may file formal complaints with the Office for Civil Rights of the U.S. Department of Education. The Office for Civil Rights (OCR), U.S. Department of Education executes the requirements of 34 C.F.R. Part 100 pursuant to the following laws:

- Title VI of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act of 1990
- Boy Scouts of America Equal Access Act

Students and applicants may file a complaint with the U.S. Department of Education. To do so, contact the Office for Civil Rights at:

Office for Civil Rights  
District of Columbia Office  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, DC 20202-1475

## **Resources for Faculty, Classified Staff, Applicants for Employment**

Faculty members or applicants for employment may file a charge with the federal Equal Employment Opportunity Commission and/or the Virginia Council on Human Rights within 300 days of the incident.

### **Staff and Applicants for Employment**

The following options are available to staff members or applicants for employment:

- a) Non-probationary classified staff may file a grievance within 30 calendar days of the offense as outlined in the Grievance Procedure for State Employees, or
- b) Salaried and wage staff may file a complaint using the Discrimination Complaint Procedure administered by the Office of Equal Employment Services in the state's Department of Human Resource Management.
- c) Salaried and wage staff may file a complaint with the federal Equal Employment Opportunity Commission or the Virginia Council on Human Rights within 300 days of the alleged discrimination and/or unlawful harassment.

Additional information regarding this policy may be obtained from the Department of Human Resources.

Agencies must inform employees they have the right to file an appeal to DHRM's Office of Workforce Engagement's Diversity, Equity, and Inclusion Unit.

To protect employee rights to appeal within 15 calendar days of the Final Agency Decision (FAD), the FAD must be dated the same date it is presented to the employee. If an employee appeals the FAD, the agency's Human Resource Office and/or EEO Office must provide a copy of the agency FAD with all attachments. Employees may file an appeal with the DHRM's Office of Workforce Engagement's Diversity, Equity, and Inclusion Unit. To do so, contact DHRM at:

Diversity, Equity, and Inclusion  
Office of Workforce Engagement Department of Human Resource Management 101  
N. 14th Street, 12 Floor  
Richmond, VA 23219

Toll Free: 800-533-1414  
Metro Richmond Area: 804-225-2136  
Fax: 804-371-7401  
Web: [www.dhrm.virginia.gov](http://www.dhrm.virginia.gov)  
Email: [dei@dhrm.virginia.gov](mailto:dei@dhrm.virginia.gov)

## **All Employees**



All Employees may file a complaint federally with the U.S. Equal Employment Opportunity Commission (EEOC) through the EEOC Public Portal.

The EEOC Richmond Local Office is located at:

400 N. Eighth Street  
Suite 350  
Richmond, VA 23219

Phone: 1-800-669-4000  
Fax: (804) 771-2224  
TTY: 1-800-669-6820  
ASL Video Phone: 844-234-5122

The Complainant should be aware that filing a complaint with the Office for Diversity, Equity, and Inclusion 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 continue or cease.

#### **XIV. Protection from Bad Faith Complaints**

It is the responsibility of the University to balance the rights of all parties. Therefore, if the University's investigation reveals that any complaint is malicious or knowingly false, such allegations will be dismissed and the person who filed the complaint may be subject to disciplinary action according to the applicable policies and employee handbooks.

#### **XV. Effective Date**

These procedures will become effective upon the date of approval of Policy 1201 by President.

The applicable substantive policy in effect at the time of the alleged conduct shall be used to determine whether the alleged conduct constitutes a violation of the policy. These investigative procedures shall apply to the investigation of all complaints made after the effective date of these procedures (until superseded by a future revision of these procedures), regardless of when the conduct occurred.