



## **Discrimination Grievance Procedure**

### **for Resolving Allegations of Discrimination under Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990**

The University of Mary Washington is committed, by action of the Board of Visitors May 10, 1991, and Reaffirmed on April 9, 2010 to equal employment and educational opportunities for all persons and does not discriminate on the basis of race, color, religion, disability, national origin, political affiliation, marital status, sexual orientation, sex, or age (except where sex or age is a bona fide occupational qualification). The University recognizes, however, that allegations of discrimination may arise and that procedures for addressing them in a prompt, orderly and equitable manner should be available. The procedures that follow outline the processes and steps that have been established by the University to address specific allegations of discrimination.

### **Scope of the Procedure**

This grievance procedure is available to students and employees at the University of Mary Washington who feel that he or she has been discriminated against by one or more persons serving in an official capacity for the University, based on one or more of the discriminatory factors listed in the preceding paragraph. This procedure is designed specifically for resolving matters of alleged discrimination as may be applicable to Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990. Complaints of sexual misconduct under Title IX may be addressed by visiting the Office of Diversity and Inclusion's Title IX page, <http://president.umw.edu/diversity/title-ix/>.

#### **Exclusions:**

Complaints of students concerning Judicial and Honor procedures and violations, student disputes with faculty members over grades or grading policies, and student campus housing policies shall be referred to other established procedures for resolution. These procedures may be found in the current Student Handbook. However, if discrimination on the part of one or more persons serving in an official capacity of the University is part of the allegation, these Grievance Procedures may be utilized

Complaints of classified employees shall be addressed by the Grievance Policy & Procedure for Classified Employees. <http://www.edr.state.va.us/grievance.htm>. An employee may obtain information and guidance from the Department of Employment Dispute Resolution (“EDR”) ([http://www.edr.virginia.gov/gpm\\_one.htm](http://www.edr.virginia.gov/gpm_one.htm)) and the university’s Office of Human Resources.

Complaints of Administrative and Professional Faculty shall be addressed by the Administrative and Faculty Grievance Procedure [http://adminfinance.umw.edu/hr/files/2011/08/administrative\\_faculty\\_065.pdf](http://adminfinance.umw.edu/hr/files/2011/08/administrative_faculty_065.pdf)

## Procedures

**Step One - Informal Process.** A complainant must meet with the University AA/EEO Officer or his/her designee within ten (10) working days after the event that gave rise to the alleged violation. One purpose of the meeting is for the University AA/EEO Officer to determine whether or not the allegation is one that comes within the purview of these procedures. The decision as to whether the complaint is covered by these procedures or is properly covered under other procedures shall be made entirely by the AA/EEO Officer, who will give the reasons in writing for this decision to the student within 5 working days of the meeting.

A second purpose for the meeting is to attempt to negotiate a resolution prior to filing the Step One Complaint Form. If the complaint cannot be resolved informally within 10 working days of the meeting, then the complainant may complete a Step One Complaint Form, (<http://adminfinance.umw.edu/hr/employee-relations/respectful-workplace-policies/discrimination/>), and submit it to the AA/EEO Officer at the end of the ten working days. The completed Step One complaint form should provide the following information:

1. The basis for the alleged discrimination from the list of discriminatory factors as described in paragraph one of this document.
2. A clear statement of the facts upon which the complaint is based, including an explanation of how the student has been adversely affected.
3. An identification of the person(s) or the University policy or procedure considered responsible for the alleged discrimination upon which the complaint is based and an explanation of why the person(s) is considered responsible or why the University policy or procedure is considered improper or has been violated.
4. A statement of the specific relief sought.

The AA/EEO Officer will review all of the information and will investigate the alleged discrimination. The AA/EEO Officer will communicate in writing the findings of the investigation and the proposed resolution to the complainant within ten (10) working days after receipt of the completed Step One Complaint Form. In this communication, the AA/EEO Officer will inform the complainant of his/her right to proceed to Step Two.

## **Step Two – Formal Process and Panel Hearing**

In the event the complainant is not satisfied with the Step One resolution, he or she may request a Complaint Panel hearing. The request for a Panel hearing shall be made on a Step Two Complaint Form (<http://adminfinance.umw.edu/hr/employee-relations/respectful-workplace-policies/discrimination/>). The Step Two form must be submitted to the AA/EEO Office within five (5) working days after receipt of the Step One decision. On the Step Two Complaint Form, the complainant will provide the following information:

1. A list of witnesses to be present at the Panel hearing or written witness statements;
2. The identification of any counsel, advisor, or observer to be present at the hearing;
3. Written statement describing why the Step One Resolution is not satisfactory.

This Step Two Complaint Form, together with the Step One Complaint Form, will constitute the formal application for the Complaint Panel hearing. The AA/EEO Officer shall transmit these forms to the President within five (5) working days after receiving them.

Within five (5) working days, the Special Assistant to the President for Diversity and Inclusion shall appoint, from a pool of panelists, a three-member Panel composed of two full-time administrators and one full-time faculty member. The panel shall meet within ten (10) working days of its appointment to review the complaint and elect a chairperson from its ranks. The AA/EEO Officer will provide the panel with copies of the complaint forms. Within five (5) working days of this initial meeting, the chair shall provide a complete copy of the complaint forms and any attachments to the respondent. The respondent shall have ten (10) working days to present a written reply to the chair of the panel. The reply shall include:

1. A full statement of the respondent's position with respect to the complaint.
2. Respondent's response or comments to any documents accompanying the complaint forms.
3. A list of witnesses who will appear at hearing or written witness statements.
4. Identification of any counsel, advisor or observer to be present at hearing.

Within five (5) working days of receipt of the reply, the chair shall provide copies of it to the panel members and the complainant. The chair shall schedule the hearing to begin no later than ten (10) working days after the distribution of the respondent's reply. The complainant and the respondent shall be immediately notified in writing of the hearing date, time, and location.

## **Conduct of the Panel Hearing**

1. The hearing is not intended to be conducted as a court proceeding. It is intended to be an interview between the complainant, respondent, and the Panel.
2. The Panel is not bound by the technical rules of evidence.
3. The Panel will make decisions on the basis of a simple majority vote.
4. The Panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing. Both parties have the right to be accompanied by counsel, an advisor, or an observer of his/her own choosing.
5. The Panel will conduct all interviews and questioning of witnesses and parties.
6. The Panel may, at the beginning of the hearing, ask for statements clarifying the issues involved.
7. The hearing shall be recorded by tape, and a copy of the tape may be supplied to either party at their request for the cost of the tape.
8. Exhibits, evidence, and witness statements should be exchanged in advance of the hearing so that the Panel might review them and request more information if needed. Exhibits when offered shall be made part of the record. The parties shall produce such additional evidence as the Panel may deem necessary to an understanding of the dispute. The Panel shall be the judge of relevance and materiality of the evidence offered.
9. The complainant, respondent and witnesses shall respond to all questions of the Panel. Representatives or observers may only advise the parties, as needed by the party. The Panel may, at its discretion, vary this procedure, but shall afford full and equal opportunity to both to be heard on the issues.
10. The Panel shall offer the parties the opportunity to make closing statements for the Panel's consideration.

Following the hearing, the Panel shall deliberate in private and transmit its recommendations within five (5) working days after the hearing to the President of the University. The President shall notify all parties of his/her decision in writing, giving reasons for his/her decision, within five (5) working days after receipt of the recommendation of the Panel.

**Step Three - Appeal.** If the President's decision is not acceptable to either the complainant or the respondent, either may appeal the decision to the Executive Committee of the Board of Visitors. To accomplish this, the party shall present to the President within ten (10) working days following the receipt of the President's written decision a written request addressed to the Rector for a hearing by the Executive Committee of the Board of Visitors. Within thirty (30) days after receipt of a request from a party, the Rector shall have the Executive Committee of the Board of Visitors review the record of the Panel hearing and the President's decision. The Executive Committee shall notify the party in writing with justification for its decision. This appeal is not available to respondents who, in their official capacity, have acted on behalf of the University and that action forms the basis of the complaint.

The decision of the Executive Committee shall be final in all determinations related to the University position on the complaint. Failure by a University Official to comply with the decision of the Executive Committee or reprisals as a result of the decision shall be cause for disciplinary action.

### **Confidentiality**

Any information regarding the filing of a grievance, the investigation of the grievance, and the disposition of the case shall be treated confidentially and will be disclosed only as needed in the furtherance of the complaint and its resolution. Unauthorized breaches of confidentiality may result in disciplinary action.

### **Retaliation**

Civil rights regulations prohibit institutions from retaliating against anyone because they have filed a complaint with the Office for Civil Rights of the Department of Education, the Equal Employment Opportunity Commission, or the U.S. Department of Justice or because they assist or take part in a subsequent investigation.

Nothing in this grievance procedure is intended to prohibit an individual from filing an allegation of discrimination with the Office for Civil Rights of the U.S. Department of Education, the Equal Employment Opportunity Commission, the U.S. Department of Justice, or other appropriate federal agencies. Utilization of this grievance procedure should not be considered a pre-requisite to the pursuit of other federal or state remedies. For questions or further information, contact the University Affirmative Action/Equal Employment Opportunity (AA/EEO) Officer in the Office of Human Resources.

### **Federal contacts**

U. S. Department of Education (Office for Civil Rights) 1-800-421-3481 (voice), 1-877-521-2172 (TDD)

Equal Employment Opportunity Commission – 1-800-669-4000 (voice) 1-800-669-6820 (TTY) U.S. Department of Justice – 1-800-514-0301 (voice), 1-800-514-0383 (TTY)