

NON-DISCRIMINATION COMPLAINT REPORTING AND RESOLUTION PROCEDURE

I. GENERAL

As set forth in the University Non-Discrimination Policy, Truman State University prohibits discrimination or harassment on the basis of sex (including sexual harassment, sexual misconduct, gender, and/or pregnancy), disability, age, race, color, national origin, religion, sexual orientation or veteran status in all programs and activities of the University. The University will act on any formal or informal complaint or report of prohibited discrimination.

This procedure sets forth the rights and obligations of all parties with respect to the reporting, investigation, resolution, and remedies for violation of the University's Antidiscrimination Policies. This procedure shall be used to resolve complaints against employees, students, organizations, volunteers, and visitors pertaining to conduct prohibited by the University's Antidiscrimination Policies. Anyone who believes that they have been subjected to prohibited discrimination, or any person who believes that a violation of the University's Antidiscrimination Policies has occurred, may use this procedure to report the alleged violation.

II. DEFINITIONS

- A. **The University's Antidiscrimination Policies.** The University's Antidiscrimination Policies include the "University Non-Discrimination Policy," promulgated and adopted by the University President, as well as the following provisions of the Board of Governors Code of Policies: Section 17.020-Notice of Non-Discrimination; Section 10.020-Equal Employment Opportunity/Affirmative Action Program; and Section 15.010-Sexual Harassment.
- B. **Prohibited Discrimination.** Discrimination or harassment on the basis of sex (including sexual harassment, sexual misconduct, gender, and/or pregnancy), disability, age, race, color, national origin, religion, sexual orientation or veteran status in all programs and activities of the University, OR retaliation against an individual for the purpose of interfering with any right or privilege secured by the University's Antidiscrimination Policies.
- C. **Complaint.** Formal or informal complaint or report of violation of the University's Antidiscrimination Policies.
- D. **Complainant.** The person who is the reported victim of discrimination under the University's Antidiscrimination Policies. The University may serve as Complainant when the alleged victim does not wish to participate in the Complaint resolution process.
- E. **Respondent.** The person, persons or organization reported to have violated the University's Antidiscrimination Policies.
- F. **Advisors.** The individuals selected by the Complainant and Respondent to provide support and guidance throughout the Grievance Procedures. Each party is allowed one advisor.

- G. **Administrative Officer.** The Administrative Officer is a trained administrator designated by the President or designee to investigate and enforce the University's Antidiscrimination Policies. The Administrative Officer serves as the University's Title IX Coordinator, Section 504 Coordinator, Institutional Compliance Officer, and Chief Equity Officer/Affirmative Action Officer. The Administrative Officer is:

Jamie Ball
McClain Hall, 101-Human Resources
Truman State University-100 East Normal, Kirksville, MO 63501
Telephone Number: (660) 785-4031
Email Address: jball@truman.edu

For purposes of this procedure, references to the Administrative Officer shall include any individual designated by the Administrative Officer to perform his/her obligations during the Complaint resolution process. The Administrative Officer has discretion to designate persons internally or from outside the University.

- H. **Student.** A person having once been admitted to the University who has not completed a course of study and who intends to or does continue a course of study in or through the University. For the purpose of these procedures, student status continues whether or not the University's academic programs are in session.
- I. **Campus Organization.** An organization which has received official approval in accordance with University policies. Three members of the organization may represent the organization throughout these procedures.
- J. **Administrative Review Panelists.** A group of at least 10 administrators or staff appointed by the President or designee to serve as panelists. Panelists serve a renewable term of three (3) years. Panelist appointments should be made with attention to the interests of groups protected by the University's Antidiscrimination Policies. The President (or designee) will select a Presiding Panelist, who assigns and coordinates the pool and decides which Panelists will be assigned to specific review panels.
- K. **Administrative Review Panel.** A group of three (3) trained administrators or staff from the larger group of panelists. The Presiding Panelist will assign three members from the pool of panelists to serve on the specific Administrative Review Panel and will also designate the Chair of the Panel. An alternate may be designated to sit in throughout the process as needed. The Chair of the Panel helps ensure that the process adheres materially to the requirements of this procedure.
- L. **Appellate Officer.** A trained, senior-level administrator appointed by the President or designee to hear all appeals from the Administrative Review Panel's determination.
- M. **Conflict Resolution.** Resolution using alternative dispute resolution mechanisms such as mediation, facilitated dialogue or restorative justice.

III. FILING A COMPLAINT/REPORTING PROHIBITED DISCRIMINATION

- A. **Students, Employees, Volunteers and Visitors.** Any student, employee, volunteer or visitor who believes that a student, organization, employee, volunteer or visitor has violated the University's Antidiscrimination Policies should contact the Administrative Officer (identified above) to file a Complaint. Upon receipt of a report or complaint of discrimination, harassment, or sexual misconduct, the Administrative Officer will begin the procedures detailed herein. For questions regarding confidentiality or requests that a Complaint not be pursued, see Section VI.B. In order to foster reporting and participation, the University may provide amnesty to Complainants, Respondents, and witnesses for minor conduct violations ancillary to the reported policy violations.

Individuals may also contact the to the University's Department of Public Safety (DPS) at (660) 665-5621 if the alleged conduct may also constitute a crime. A report to DPS will be considered a report to law enforcement. Though DPS can assist victims of sexual misconduct in accessing services and/or contacting the Administrative Officer, DPS may also proceed with pursuing a criminal investigation and/or criminal charges with or without the Complainant's consent.

Although the University strongly advocates that victims of sexual misconduct report the incident to DPS or other law enforcement in a timely manner, in most cases, it is the victim's choice to make such a report and the victim has a right to decline involvement with law enforcement. However, the Administrative Officer is legally obligated to notify law enforcement of alleged sexual misconduct where the victim is a minor or there is a significant threat to the health and/or safety of others. For all other offenses that may constitute a crime, the Administrative Officer retains discretion to notify law enforcement of the alleged misconduct without the victim's consent, but is not obligated to do so. That decision should be made in accordance with applicable law and, in most cases, after consultation with legal counsel. In making this decision, the Administrative Officer will attempt to balance the victim's request for privacy with the interests of the campus and community, and exercise good judgment in light of all the circumstances.

- B. **Mandated Reporters.** With the exception of employees who are Confidential Reporters (see subsection D below), **all employees of the University who become aware of a potential violation of the University's Antidiscrimination Policies are Mandated Reporters**, regardless of whether the reported victim of the alleged conduct is a student, employee, volunteer or visitor of the University. **A Mandated Reporter must promptly report potential violations of the University's Antidiscrimination Policies to the Administrative Officer, regardless of whether the reported victim of the alleged conduct requests confidentiality and regardless of how the Mandated Reporter becomes aware of the alleged conduct** (personal observation, direct information from the reported victim, indirect information from a third party, etc.). If the reported victim requests confidentiality or that the Complaint not be pursued, the mandated reporter should notify the individual that, at this stage in the process, the Mandated Reporter must report all known information to the Administrative Officer.

- C. **Content of Mandated Report to Administrative Officer.** Mandated Reporters must report all details that they possess to the Administrative Officer. This includes names of the parties, if known, and all other information in the Mandated Reporter's possession.
- D. **Confidential Reporters.** Though the University encourages students and employees to bring reports of prohibited discrimination to the attention of the Administrative Officer for further investigation pursuant to these procedures, individuals who wish to maintain confidentiality may contact the following resources:

For students, contact University Counseling Services at (660) 785-4014. After hours, call the Dispatcher at (660) 665-5621 and ask for the crisis counselor.

For employees, contact Human Resources at (660) 785-4031 and ask for information regarding the Employee Assistance Program.

These employees are Confidential Reporters. Absent the reporting party's consent and/or situations where they perceive a serious risk or threat of injury to any person or property, Confidential Reporters are not required to report information learned in the course of confidential communication to the Administrative Officer for further investigation pursuant to these procedures. However, if the information is not learned in the course of confidential communication (for example, behavior observed in class), then a Confidential Reporter has the same obligation as a Mandated Reporter. Furthermore, at the request of the reporting party, Confidential Reporters can assist individuals in contacting the Administrative Officer to report prohibited discrimination. Individuals who wish to maintain confidentiality may also speak with off-campus counselors and off-campus members of the clergy and chaplains, all of whom have the right to maintain confidentiality.

IV. PROTECTIVE/REMEDIAL MEASURES

Upon receipt of a Complaint of prohibited discrimination, the Administrative Officer, in cooperation with appropriate University officials, may provide protective measures or interim remedies including, but not limited to, one or more of the following:

- A. Referral and facilitating access for Complainant to counseling and medical services;
- B. Implementing contact limitations on the Respondent or on all parties;
- C. Referral of Complainant to victim advocacy and support services on and off-campus;
- D. Referral of Complainant to academic support services and/or any other services that may be beneficial to the Complainant;
- E. Adjusting the courses, assignments, and/or exam schedules of the Complainant and/or the Respondent;

- F. Adjusting the work schedules, work assignments, supervisory responsibilities, supervisor reporting responsibilities and/or work arrangements of the Complainant and/or the Respondent;
- G. Altering the on-campus housing assignments, dining arrangements, or other campus services for the Complainant and/or the Respondent;
- H. Altering the extracurricular activities of the Complainant and/or the Respondent;
- I. Providing transportation accommodations for the Complainant, when reasonably available;
- J. Informing the Complainant of her/his right to notify law enforcement authorities of the reported incident and offering to help facilitate such a report;
- K. Suspending, on an interim basis, the Respondent from University housing, classes, the University campus/facilities/events and/or all other University activities or privileges for which the Respondent might otherwise be eligible, when the Administrative Officer finds and believes from the available information that the presence of the Respondent on campus would seriously disrupt the University or constitute a danger to the health, safety, or welfare of members of the University community.

The appropriate procedure to determine this future status of the Respondent will be initiated within seven business days.

1. In all cases in which an interim suspension is imposed, the Respondent will be given the opportunity to meet with the Administrative Officer prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented.
2. At the discretion of the Administrative Officer, when the Respondent is a student, alternative coursework options may be pursued to ensure as minimal an impact as possible on the Respondent.
3. The Administrative Officer has sole discretion to implement or stay an interim suspension and to determine its conditions and duration.
4. Violation of an interim suspension under this policy will be grounds for expulsion.

- L. In cases where the Respondent is a campus organization, suspending, on an interim basis, the Respondent organization's operations, University recognition, access to and use of the University campus/facilities/events and/or all other University activities or privileges for which the Respondent organization might otherwise be eligible, pending the completion of the Complaint resolution process.
- M. Institute leave from work with or without pay for the Complainant and/or Respondent.

The Administrative Officer will determine which protective measures or interim remedies, if any, are appropriate to each specific case. Factors to consider will be the status of the Complainant

and Respondent (student, employee, volunteer or visitor), the particular circumstances, and the needs of the Complainant, Respondent and the campus community. For Complaints of sexual misconduct, the University will provide protective measures or interim remedies if the Complainant requests them and they are reasonably available, regardless of whether the Complainant chooses to report the incident to DPS or local law enforcement.

V. IMMEDIATE OBLIGATIONS TO VICTIMS OF SEXUAL MISCONDUCT

Upon receipt of a Complaint of sexual misconduct, the Administrative Officer will:

- A. Provide the Complainant with access to medical care if appropriate;
- B. Assess the immediate safety needs of the Complainant;
- C. Provide the Complainant with contact information for local law enforcement and assist the Complainant with contacting local law enforcement if the Complainant requests;
- D. Inform the Complainant of the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance and other services on and/or off campus;
- E. Assess the need to implement protective measures or interim remedies, and provide those remedies if they are reasonably available and requested by the Complainant, regardless of whether the Complainant chooses to report the alleged sexual misconduct to law enforcement (see Section IV above); and
- F. Provide the Complainant with a copy of the University Non-Discrimination Policy and this procedure, and inform the Complainant regarding timeframes for inquiry, investigation, and resolution.

VI. COMPLAINT INVESTIGATION

A. Determination of Jurisdiction

Prior to proceeding with the investigation and resolution process, the Administrative Officer will determine whether the report or Complaint alleges conduct that is prohibited by the University's Antidiscrimination Policies. If the Administrative Officer believes that the allegations, if proven, would not constitute a violation of the Antidiscrimination Policies, the Complainant will be advised of other available remedies and support options as appropriate, and no further investigation will be pursued under this procedure. If new information is later provided, the Administrative Officer may reevaluate the applicability of this procedure. If the Administrative Officer believes that the allegations, if proven, would constitute a violation of the University's Antidiscrimination Policies, the investigation and resolution process described herein will be followed.

B. Participation of the Complainant

The Administrative Officer should inform and obtain consent from the Complainant before proceeding with the Complaint resolution process detailed herein. If the Complainant requests confidentiality or asks that the Complaint not be pursued, the Administrative Officer should take all reasonable steps to investigate and respond to the Complaint consistent with the request for confidentiality or the request not to pursue an investigation. If a Complainant insists that identifiable information, such as the Complainant's name, not be disclosed to the Respondent, the Administrative Officer should inform the Complainant that the University's ability to respond to the Complaint may be limited. The University will inform the Complainant if it cannot ensure confidentiality.

The Administrative Officer should evaluate the Complainant's request for confidentiality and/or that a Complaint not be pursued in the context of providing a safe and nondiscriminatory environment for all students, employees, volunteers and visitors. The University reserves the right to pursue this Complaint resolution process even when a Complainant chooses not to participate in the process, when necessary to protect the University community or others and provide a safe and nondiscriminatory environment. If, after due deliberation, the Administrative Officer decides the University will not pursue the Complaint, the Administrative Officer should consider other steps to limit and remedy the effects of the alleged misconduct and prevent its reoccurrence. If, after due deliberation of the Complainant's request, the Administrative Officer decides not to proceed with the procedures detailed herein, such a decision should be well-reasoned and documented. In addition, the Administrative Officer should consider other steps to limit the effects of the reported discriminatory behavior, prevent its recurrence, and remedy its effects on the victim and the University community.

C. Notice of Charges

If the Administrative Officer determines that the allegations, if proven, would constitute a violation of the University's Antidiscrimination Policies, the Administrative Officer will send a Notice of Charges letter to the Complainant and Respondent with the following information:

1. A description of the alleged violation(s) and applicable policies;
2. A copy of the applicable procedures;
3. A statement of the potential sanctions/remedial actions that could result;
4. Notification that the Complainant and Respondent may have the assistance of an Advisor of their choosing, throughout the investigation and resolution process, though the Advisor's attendance throughout the investigation and resolution process is the responsibility of the respective parties; and
5. A statement that Retaliation is prohibited.

The Notice of Charges will be made in writing and will be delivered in person, or mailed to the local address of each respective party as indicated in official University records or emailed to the party's University-issued email account. If there is no local address on

file, mail will be sent to the party's permanent address. Once delivered in either manner indicated herein, notice will be deemed to have been provided.

D. Conflict Resolution

The Administrative Officer will determine if Conflict Resolution is appropriate, based on the willingness of the Complainant and Respondent, the nature of the conduct at issue, and the susceptibility of the conduct to Conflict Resolution. Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal investigation and resolution process. Conflict Resolution is used only if both the Complainant and Respondent agree. In a Conflict Resolution meeting, the Administrative Officer will facilitate a dialogue with the Complainant and Respondent to reach an effective resolution, if possible.

Sanctions and appeals are not possible as the result of Conflict Resolution, though the parties may agree to appropriate remedies. The Administrative Officer will keep records of any resolution that is reached, and failure to abide by the resolution reached through this process can result in appropriate responsive actions.

Conflict Resolution will never be used in cases alleging sexual assault and will not be the primary or default resolution mechanism used to address Complaints of sexual misconduct or violent behavior of any kind. However, Conflict Resolution may be used after an investigation is completed should the Complainant and Respondent both wish to pursue it, and if the Administrative Officer believes it could be beneficial. Conflict Resolution is optional, and either party can stop the Conflict Resolution process at any time and proceed with an investigation and determination by the Administrative Review Panel.

E. Investigation

1. **Scope of Investigation.** The Administrative Officer is authorized to contact any and all individuals with potentially relevant information and access and/or request records or any additional evidence, outside of those legally protected as confidential or privileged, relevant to the Complaint. The nature and scope of the investigation is within the discretion of the Administrative Officer. The Complainant and Respondent will be asked to identify all relevant evidence they would like the Administrative Officer to consider, as well as witnesses they would like the Administrative Officer to interview. Both the Complainant and the Respondent may provide, if they wish, a list of questions they would like the Administrative Officer to ask of particular witnesses or of each other. The Complainant and Respondent will not be permitted to question or cross-examine each other during the course of the investigation. The Administrative Officer will consider all evidence he/she deems necessary to complete a prompt, thorough, and impartial investigation, but is not required to interview all witnesses identified by the Complainant or Respondent or ask the questions

provided by the Complainant or Respondent. However, in determining whether to interview witnesses or ask particular questions, the Administrative Officer should consider such factors as equity, fairness, and impartial treatment of both parties.

2. **Equal Rights of Parties.** To the extent permitted by law, the Complainant and Respondent will be afforded the same rights and opportunities throughout the investigation, including the right to receive timely notice of meetings in which they are a participant; the right to receive timely and equal access to information relied on as part of the investigation; and the opportunity to recommend witnesses and submit evidence.
3. **Advisors.** Complainant and Respondent are entitled to the same opportunities to have an advisor of their choice present at any interviews or meetings related to the investigation and resolution process provided under this procedure. The role of the advisor is solely to support the individual. The advisor is not permitted to ask or answer questions, serve as a witness, or make a statement on behalf of the Complainant or Respondent. The University is not responsible for providing the Complainant or the Respondent with an advisor. The Administrative Officer may terminate meetings and proceed with the investigation based on information otherwise available if advisors refuse to comply with these requirements.
4. **Admission of Wrongdoing.** If at any point during the investigation, the Respondent acknowledges that he/she engaged in the conduct at issue in the Complaint and accepts responsibility for violating the University's Antidiscrimination Policies, the Administrative Officer may refer the matter to the Administrative Review Panel for a determination regarding sanction(s), discipline, and/or other action(s) in accordance with this procedure.
5. **Truthful Information.** All participants in the investigation are expected to cooperate fully by providing complete, accurate, and truthful information. Participants will not be deemed to have provided false or misleading information if their factual allegations are intended to be truthful and are made in good faith, regardless of whether the conduct complained of is ultimately found to constitute a policy violation. Participants in the investigation will be expected to keep the content of the interview and investigation confidential. Should a Complainant or Respondent fail to cooperate with the Administrative Officer, the investigation may proceed, a finding may be reached, and sanctions/remedial actions may be imposed based on the information available.
6. **Timelines.** The investigation will ordinarily be completed within forty-five (45) days from the time a report or Complaint is made to the Administrative Officer. This time period may be shorter or longer depending on the circumstances, including, but not limited to, the complexity of the case, the academic calendar, and the availability of witnesses and other relevant individuals. If either the Complainant or Respondent would like to request an extension of this time frame, a request with a description of the reasons for the request should be

directed to the Administrative Officer. The Administrative Officer will notify the other party, make a decision, and inform the parties and any other individual who needs to know of that decision. If extenuating circumstances are present, the Administrative Officer may decide independently to extend the forty-five (45) day time frame, and will inform the Complainant and Respondent, and any other individual who needs to know, of any such decision.

7. **Access to Evidence.** At the conclusion of the investigation, to the extent permitted by law, the Complainant and Respondent may review the witness statements and other relevant materials. This includes the statements of both the Respondent and Complainant. Both will have an opportunity to respond to this information in writing within seven (7) days. If at any stage following the submission of these responses new relevant evidence is gathered, it will be shared with both parties, who will have an opportunity to submit a written response within a time frame determined by the Administrative Officer.
8. **Effect of Criminal Proceedings.** In accordance with federal law, the Administrative Officer will not wait for the conclusion of a criminal investigation or criminal proceeding to begin the Complaint resolution process set forth in this procedure. The University may undertake a short delay (several days to weeks) to allow evidence collection by a law enforcement agency and to avoid interference with that criminal investigation when criminal charges on the basis of the same behaviors that invoke this procedure are being investigated. The Administrative Officer will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the Complainant and the campus community and the avoidance of retaliation. University action will not typically be altered or precluded on the grounds that civil cases or criminal charges involving the same incident or alleged conduct have been filed or that charges have been dismissed or reduced.
9. **Concerns about Bias.** If a Complainant or Respondent is concerned that the Administrative Officer, or other University official involved in the investigation and/or resolution process may be biased or have a conflict of interest, the person should inform the Appellate Officer of that concern immediately. The Appellate Officer will consider this concern and determine if any bias or conflict of interest exists.
10. **Investigation Report.** Within three (3) business days after conclusion of the investigation, the Administrative Officer will prepare an Investigation Report. The Investigation Report will include a summary of the evidence considered and a recommended finding on whether a violation of the University's Antidiscrimination Policies occurred. The recommended finding will be based on the preponderance of evidence standard (i.e., whether it is more likely than not that a policy or policies was violated).

VII. ADMINISTRATIVE REVIEW PANEL DETERMINATION

A. Procedures Applicable to All Complaints.

1. An Administrative Review Panel (ARP) will be convened, usually within one to two weeks of the completion of the investigation.
2. Participants will include the Panel Chair, the two other members of the Administrative Review Panel, and may include the Administrative Officer who investigated the Complaint, the Complainant, the Respondent (or up to three organizational representatives in a case where an organization is charged), Advisors to the parties, and any called witnesses. The University reserves the right to have its attorney or attorneys present during the ARP process.
3. The Administrative Officer will submit a copy of the Investigation Report to the ARP Chair.
4. The ARP is not bound by the Investigation Report. The ARP may accept or reject the Administrative Officer's recommended finding in whole or in part. Before making a determination, the ARP may request additional relevant information and may consult with other individuals as appropriate and permitted by law.
5. Prior to the ARP's determination, the Complainant or Respondent may choose to meet individually with the ARP. If either the Complainant or Respondent requests to meet with the ARP, the other party will be notified of this request and will also be given the opportunity to meet with the ARP. The ARP may also request individual meetings with both the Complainant and the Respondent.
6. Questioning or evidence about the Complainant's prior sexual conduct is not permitted, though the ARP may grant a limited exception in regards to the sexual history between the Complainant and Respondent.
7. In any proceedings before the ARP, the Respondent may not directly question the Complainant, and the Complainant may not directly question the Respondent. However, either party may submit questions to the ARP Chair, and those questions deemed appropriate and relevant will be asked on behalf of the requesting party.
8. After review of the Investigation Report and any additional relevant information provided by the parties, the ARP shall make a determination as to whether a violation of the University's Antidiscrimination Policies occurred. The ARP's determination will be based on a preponderance of the evidence standard (i.e., whether it is more likely than not that a policy or policies was violated).
9. Absent extenuating circumstances, the ARP's deliberations should normally be concluded within 14 days after receipt of the Investigation Report. The 14-day period may be extended if the ARP determines that further information or investigation is needed. If this timeline is extended, the Complainant and

Respondent will be notified of the extension and the reason for the extension in writing.

10. The ARP Chair will prepare a written report and deliver it to the Administrative Officer detailing the finding, how each member voted, the information cited by the panel in support of its determination and any information the ARP excluded from its consideration and why. The report should conclude with a determination regarding what sanctions/remedial actions will be imposed. This report should not normally exceed two pages in length and is typically submitted to the Administrative Officer within two (2) business days of the end of deliberations. Any deviation from the two business-day period must be for good cause and will be communicated to the Complainant and Respondent in writing along with the expected time of completion. The Administrative Officer may assist in the preparation of the report.
11. Factors considered when determining a sanction/remedial action may include:
 - The status of the Complainant and Respondent (student, employee, volunteer or visitor);
 - The nature, severity and circumstances surrounding the violation;
 - The disciplinary history of the Respondent;
 - Any other information deemed relevant by the ARP;
 - The need for sanctions/remedial actions to bring an end to the prohibited discrimination;
 - The need for sanctions/remedial actions to prevent the future recurrence of prohibited discrimination;
 - The need to remedy the effects of the prohibited discrimination on the Complainant and the University community.

B. **Complaints Against Students.** For cases involving Complaints or reports against students, the following process will be followed after the ARP has made a determination:

1. If the ARP finds that a student has engaged in conduct that violates the University's Antidiscrimination Policies, the ARP will determine the appropriate sanctions/remedial actions. Prior conduct may be taken into account in this determination. Sanctions/remedial actions could include warnings, written reprimands, probationary status, official suspension, or expulsion from any or all University program(s) in which the student is enrolled or participating. It may also include other action as deemed appropriate under the circumstances (e.g., long-term protective measures to address the needs of the Complainant, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of no contact orders, and other actions deemed necessary to maintain a safe environment for the Complainant and/or other members of the University community). Failure to comply with any

sanction or other action issued by the ARP may be grounds for further discipline.

2. For investigations following Complaints or reports of sexual misconduct against students, the Complainant and the Respondent will be simultaneously notified in writing of the determination of the investigation and resolution process, any sanctions/remedial actions imposed, the right to appeal, any changes to the result of investigation and resolution process, and when such results become final. For investigations following Complaints or reports of a crime of violence or non-forcible sex offense (as defined in 34 C.F.R. § 99.39) against students, the Complainant will be notified of the name of the Respondent (if not already known), the determination of the investigation and resolution process, and any sanctions/remedial actions imposed. For investigations following all other Complaints or reports of discrimination or harassment against students, the Complainant and the Respondent will be notified in writing of the determination of the investigation and resolution process, any sanctions/remedial actions imposed (the Complainant will only be notified of those that directly relate to the Complainant, like an order that the Respondent stay away from the Complainant), and the right to appeal.

C. **Complaints Against Employees.** For cases involving Complaints or reports against employees, the following process will be followed after the ARP has made a determination:

1. If the ARP finds that a staff or faculty member has engaged in conduct that violates the University's Antidiscrimination Policies, the ARP will make a recommendation regarding discipline or other appropriate action to the appropriate cabinet level supervisory authority for the area. After review of the ARP's recommendation, the supervisory authority may impose disciplinary action, including verbal warnings, written warnings, written reprimands, suspension, termination of employment, or other action as deemed appropriate under the circumstances. If the supervisory authority decides to terminate the employment of a faculty member, the termination and appeal procedures in Chapter 6 of the Board of Governors Code of Policies will be followed. Failure to comply with any discipline or other action issued by the appropriate supervisory authority may be grounds for further discipline.
2. For investigations following Complaints or reports of sexual misconduct against employees, the Complainant and the Respondent will be simultaneously notified in writing of the determination of the investigation and resolution process, any disciplinary or other action(s) imposed, the right to appeal, any changes to the result of investigation and resolution process, and when such results become final. For investigations following all other Complaints or reports of discrimination or harassment against employees, the Complainant and the Respondent will be notified in writing of the determination of the investigation and resolution process, any disciplinary or other action(s) imposed (the Complainant will only be notified of those that directly relate to the

Complainant, like an order that the Respondent stay away from the Complainant), and the right to appeal.

VIII. WITHDRAWAL PRIOR TO RESOLUTION

- A. **Withdrawal/Resignation While Charges Pending.** Should a Respondent decide to withdraw as a student or resign as an employee from the University and not participate in the investigation and/or resolution process, these procedures will nonetheless proceed in the Respondent's absence to a reasonable resolution and, if the Respondent is found responsible, the Respondent will not be permitted to return to University unless all sanctions/remedial actions have been satisfied.
- B. **Emergency Withdrawal, Suspension, or Expulsion (Students).** The University reserves the right, notwithstanding and apart from the procedures described above, on an emergency basis, to temporarily or permanently suspend, expel or require to withdraw any student whose presence is determined by University authorities (e.g., Administrative Officer, ARP, President) to pose a danger to the community or its members or to be unduly disruptive of University life, or who appears to be unwilling or incapable of effectively and/or safely participating in academic or other programs and/or the residential life of the University. In cases of emergency suspension or required withdrawal, the conditions and procedures for readmission will be determined and communicated in writing to the student once the circumstances surrounding the student's departure have been clarified.

IX. APPEAL PROCESS

- A. **Right to Appeal.** Except in cases involving Complaints or reports of sexual misconduct, the right of appeal is only available to a Respondent or Complainant who participated in the investigation and resolution process.
- B. **Grounds for Appeal.** Both the Complainant and Respondent are allowed to appeal the decision of the ARP, but appeals are limited to the following:
 - 1. A procedural error occurred that significantly impacted the outcome of the investigation or ARP determination (e.g., substantiated bias, material deviation from established procedures, etc.)
 - 2. To consider new evidence, unavailable during the investigation, or ARP determination that could substantially impact the original finding and/or sanctions/remedial actions.
 - 3. The sanctions/remedial actions fall outside the range typically imposed for this offense, or for the cumulative conduct record of the Respondent.
- C. **Requests for Appeal.** Either the Complainant or Respondent or both may submit a request for appeal to the Appellate Officer. The University's Appellate Officer is:

Sally Herleth
McClain Hall, 101-Human Resources
Truman State University-100 East Normal, Kirksville, Mo 63501
Telephone Number: (660) 785-4031
Email Address: sallydet@truman.edu

All requests for appeal must be submitted in writing to the Appellate Officer within three (3) business days of the delivery of the written finding of the ARP. The Appellate Officer has the discretion to grant an extension of five (5) business days to both the Complainant and Respondent to file a request for appeal for good cause shown. Requests must specify the ground(s) upon which the appeal is based. Requests that do not meet these requirements will be denied without full consideration on the merits. This helps ensure the efficient and timely operation of the appellate process. Accordingly, when the Complainant and/or Respondent submits an appeal, they are deemed to have "requested" that their appeal be heard, and the Appellate Officer will review the appeal to determine if it meets the requirements for an appeal.

- D. **Review of the Request for Appeal.** The Appellate Officer will make an initial review of the appeal request(s). The original finding and sanctions/remedial actions are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the other party will be notified. The party requesting an appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The Appellate Officer will then review the request for an appeal to determine whether:

1. The request is timely, and
2. The appeal is on the basis of any of the three articulated "Grounds for Appeal" listed above, and
3. When viewed in the light most favorable to the appealing party, the appeal states grounds that could result in an adjusted sanction/remedial action.

The Appellate Officer will reject the request for appeal if all three of the above are not met. Such a decision is final.

- E. **Decision on Appeal.** If all three requirements for appeal listed above are met, the Appellate Officer will accept the request for appeal and proceed with rendering a decision on the appeal applying the following additional principles:

1. Decisions by the Appellate Officer are to be deferential to the original decision, making changes to the finding only where there is clear error and to a sanction/remedial action only if there is a compelling justification to do so.
2. Appeals are not intended to be full re-hearings of the Complaint. In most cases, appeals are confined to a review of the written documentation, record of the ARP, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the Administrative Officer or ARP for reconsideration.

3. Sanctions/remedial actions imposed are implemented immediately unless the ARP or Appellate Officer stays their implementation pending the outcome of the appeal.
4. Absent extenuating circumstances, the decision of the Appellate Officer will ordinarily be issued within 14 days after receipt the appeal. If this timeline is extended, the Complainant and Respondent will be notified of the extension and the reason for the extension in writing. The decision of the Appellate Officer is final.
5. For appeals involving Complaints or reports of sexual misconduct or a crime of violence or non-forcible sex offense (as defined in 34 C.F.R. § 99.39) against students, the Complainant and the Respondent will be simultaneously notified in writing of the result of the appeal and any changes in the sanction(s) or other action(s) imposed. For appeals involving all other Complaints or reports of discrimination or harassment, the Complainant and the Respondent will be notified in writing of the result of the appeal and any changes in the sanction(s) or other action(s) imposed (the complainant will only be notified of changes that directly relate to the complainant, like an order that the Respondent stay away from the complainant).

Once an appeal is decided, the outcome is final. Further appeals are not permitted. The University will maintain documentation of these procedures.

X. TRAINING

The Administrative Officer, members of the Administrative Review Panelist Pool, the Appellate Officer, and other University officials involved in the investigation and/or resolution of Complaints pursuant to this procedure are trained annually on issues related to domestic violence, dating violence, sexual assault, and stalking and are taught how to conduct these procedures in a way that protects the safety of the Complainant and promotes accountability. These individuals also receive training on the University's Antidiscrimination Policies, handling complaints of prohibited discrimination, procedures for reporting and responding to Complaints, and confidentiality requirements.

XI. RIGHTS OF THE PARTIES

Both Complainant and Respondent shall have the right to:

- A. Be treated with respect by University officials;
- B. Have access to available campus support resources (such as counseling and mental health services and University health services);
- C. Have an Advisor of their choice accompany them to all interviews, meetings, and proceedings throughout the Complaint resolution process;

- D. Receive timely notice of interviews, meetings, and proceedings in which they are a participant;
- E. Have an equal opportunity to present a list of potential witnesses and provide evidence and have timely and equal access to information throughout the Complaint resolution processes, to the extent permitted by this procedure and applicable law;
- F. Be free from retaliation;
- G. Have Complaints resolved in substantial accordance with this procedure;
- H. Participate in the Complaint resolution process (this is true even if the Complainant is not the reporting party);
- I. Be informed of the outcome of the investigation and the ARP determination in writing, to the extent permitted by this procedure and applicable law;
- J. Request reasonable protective measures or interim remedies consistent with this procedure;
- K. Request a no contact directive between the parties;
- L. Have equal opportunity to appeal the Administrative Review Panel's determination;
- M. Have the names of witnesses who provided information during the investigation within three (3) business days following the conclusion of the investigation; and
- N. Have copies of all pertinent documentary evidence, to the extent permitted by law, within three (3) business days following the conclusion of the investigation.

Approved and Adopted August 14, 2015

By: 

Troy D. Paino, President, Truman State University