

2.2 Prohibition of discrimination and harassment

In furtherance of the University's commitment to non-discrimination, the Board of Governors has adopted [G1.31, Reporting Allegations of Discrimination on the Basis of a Protected Class](#), which can be accessed in the Policy Library, located on the university's website. All forms of discrimination and harassment degrade the academic and working environment of the university, and are wholly inconsistent with the university's public affairs mission. Sexual harassment is especially troubling in the academic environment due to the unique relationship between student and faculty member or supervisor and subordinate, and the inherent inequities in power that exist in such relationships. Sexual harassment not only violates the law and university policy but also can damage personal and professional relationships, cause career or economic disadvantage, expose the university to legal liabilities, a loss of federal research funds, and other financial consequences.

~~Any member of the university community who believes that he or she has been the subject of sexual harassment, or any other type of sex discrimination (including discrimination on the basis of marital status, family status, pregnancy, sexual orientation, gender identity, or gender expression) should immediately report such concerns to the Title IX Coordinator, who is located in Carrington Hall 205, 901 S. National Ave., Springfield, Missouri 65897, and who may be contacted at TitleIX@MissouriState.edu or [417-836-8506](tel:417-836-8506).~~

Any member of the University community who believes that he or she has been the subject of discrimination on the basis of any ~~other~~ protected class (i.e., [sex, sexual orientation, marital status, family status, pregnancy, gender identity, gender expression](#), race, age, religion, national origin, disability, veteran's status, or genetic information) should immediately report such concerns to the [Office for Institutional Equity and Compliance](#) (OIEC), which is located in Carrington Hall 205, 901 S. National Ave., Springfield, Missouri 65897, and may be contacted at Equity@MissouriState.edu or [417-836-4252](tel:417-836-4252).

Allegations of sexual harassment that meet the definition of jurisdictional requirements of Title IX of the Education Amendments of 1972 ("Title IX") and its implementing regulations will be addressed as set forth in [Op1.02-11 Title IX Sexual Harassment Grievance Procedure Policy](#). All other allegations of discrimination or harassment (including sexual harassment as defined by the Title VII of Civil Rights Act of 1964 ("Title VII") will be addressed in a manner consistent with [Op1.02-2 Discrimination Complaint and Investigation Procedures](#). Employees who are found to be responsible for engaging in acts of discrimination and/or harassment will be subjected to disciplinary action up to and including termination of employment.

2.2.1 Discrimination and harassment training policy

To create a positive learning, working and living environment, the university must provide an atmosphere free of discrimination and harassment. The most effective way to prevent discrimination and harassment is through awareness and education. There are at least four goals to be achieved through education: (a) ensuring that all alleged victims (and potential victims) are aware of their rights; (b) notifying individuals of conduct that is proscribed; (c) informing administrators about the proper way to address complaints of violations of this policy; and (d) helping educate the community about the problems this policy addresses.

To achieve these goals, the Division of Legal Affairs and Compliance has developed a training program to inform, educate and guide members of the university community on sexual harassment and discrimination. New employees must complete both the ~~Preventing Discrimination and Harassment Online Training Program and the Preventing Sexual Misconduct (Title IX) Online Training Program~~ ("Compliance Training") Discrimination Awareness in the Workplace Online Training Program and Title IX: Roles of Responsible Employees Online Training Program -within 30 calendar days of commencing employment with the university. Every three (3) years, all university employees are required to repeat the Compliance Training.

3.19.9 Failure to work

If an employee has not worked during a continuous six (6) month period and is not on an approved leave, the employee's employment with the university shall be terminated.

5.2.4 Performance improvement plan

A supervisor ~~must~~ may initiate a Performance Improvement Plan (PIP) when an employee's overall performance rating is less than "Competent" (less than 3) or when a supervisor determines current performance requires improvement as part of the Annual ADP process. The PIP process must be initiated by the supervisor if the employee's overall rating is less than 2.5 on the 5.0 rating scale. If the lower rating is the result of behavior and/or performance that was already formally addressed during the rating the period, the supervisor may not be required to initiate a PIP. Supervisors should consult with HR Performance Management for guidance on their employee's individual situation. The Performance Improvement Plan document should include:

- Behavior, performance, situations or conditions that need to be changed.
- Expected changes by the employee to improve their performance or behavior along with demonstrated outcomes.
- Any supporting activities, training or guidance to support the improvement.
- Expected timeline for improvement.

The PIP document becomes part of the employee's Appraisal and Development Plan for the rating period it was initiated. Supervisors should consult with their next line of supervision (Reviewer) when initiating a PIP on an employee since the Reviewer also signs the form at the establishment of the PIP and at the Follow-Up Review. Supervisors needing to address performance issues with an employee should contact the office of human resources, [Performance Management](#) for assistance and guidance on the process prior to meeting with the employee. The Performance Improvement Plan form can be found online.

7.2.2.1 Unused sick leave applied at retirement

Employees terminating employment for any reason *other than qualified retirement* are not paid for their unused sick leave. However, the Missouri State Employees' Retirement System (MOSERS) requires that the university report the number of unused sick hours that an employee had at the time the employee terminated employment with the university. If the employee is vested in MOSERS at the time of termination of employment, MOSERS will convert the reported unused sick leave hours into retirement service credit; 168 hours equals one month of service credit. When the employee applies for retirement at some future date when he/she is qualified to retire, MOSERS will include those months of service in the calculation of the retirement benefit amount.

The provisions of this section regarding treatment of sick leave by MOSERS are subject to modification in order to comply with MOSERS requirements. Employees who retire under one of the university's public retirement plans will be paid for 40 percent of any accrued unused sick leave rounded up or down to the nearest full day (up to a maximum of 384 hours (48 days), and the remaining unused sick leave will be reported to MOSERS for inclusion as creditable service in accordance with MOSERS' policies regarding the reporting of unused sick leave. A qualified retirement is one in which the employee is eligible for and receives a monthly retirement benefit from one of the university's retirement plans (Missouri State Employees' Retirement System).

Faculty with 9-month appointments who retire under MOSERS or CURP will not be paid for accrued but unused sick leave upon retirement. Rather, with respect to faculty members who retire under MOSERS, the entire balance of their accrued but unused sick leave will be reported to MOSERS for retirement service credit. Faculty members who choose to remain in and retire under CURP will not receive retirement service credit for accrued but unused sick leave.

7.7 Family and medical leave

Missouri State University provides Family and Medical Leave (FML) in accordance with the federal Family and Medical Leave Act (FMLA) of 1993 and subsequent amendments. FMLA provides eligible employees who work for covered employers the right to take unpaid, job-protected leave for absences due to a qualifying event. This policy outlines information also obtained in the [Department of Labor poster](#). The terms referenced in this policy are defined as outlined in Department of Labor regulations and any inconsistencies between this policy and the regulations are resolved in favor of the regulations (29 CFR Part 825).

Employee eligibility

Eligible employees who have a qualifying event and provide appropriate notice and requested certification(s) are entitled to a total of 12 weeks of unpaid, job-protected leave and health insurance continuation during a rolling 12-month period, except military caregiver leave which can be up to 26 weeks. The minimum requirements for an employee to be eligible for FML:

1. worked for the university for at least 12 months;
2. worked at least 1,250 hours in the 12 months prior to when the leave will commence;
3. has not used all available FML in the 12 months prior to when the leave will commence;
- and
4. has a qualifying event.

Qualifying event

A qualifying event under FMLA includes:

1. Birth and care of the employee's newborn child;
2. Placement of a child with the employee for adoption, or by the State for foster care;
3. To care for the employee's spouse, sponsored dependent, child or parent with a serious health condition (this does not include in-laws);
4. The employee's own serious health condition that prevents him or her from performing the employee's job;
5. "Any qualifying exigency" for an employee's spouse, sponsored dependent, child, or parent on active military duty or being called to active military duty; or
6. To care for a spouse, sponsored dependent, child, parent, or next-of-kin who is a member of the Armed Forces and who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness suffered in the line of duty on active duty.

Amount and timing of leave

Eligible employees may take up to 12 weeks of FML during a rolling 12-month period for the first five qualifying events above. Only military caregiver leave, the 6th qualifying event above,

provides an entitlement to 26 weeks. The 12-month period is defined as the 12 months prior to when the leave will commence. Eligible employees may take leave in the following manner:

- Family leave for the birth or adoption of a child must be taken within 12 months of the birth or adoption of the child.
- Leave for birth or adoption shall normally be limited to one consecutive leave period; it may not be taken on an intermittent or reduced time basis, (e.g., every other day or a couple of hours every day). However, if the employee is approved by a health care provider and their supervisor to work on an intermittent basis during the 12-week period, the employee must submit a “fitness for duty” certification from the health care provider, verifying the employee’s ability to return to work, with or without restrictions. The employee cannot work from home unless approved under the [Telecommuting policy \(4.11\)](#)
- As consecutive weeks or on an intermittent basis when medically necessary, or for qualifying exigencies. Employees must attempt to schedule intermittent leave to minimize disruption of normal operations

Employee request and notice

The Family and Medical Leave Act not only mandates certain protections and benefits for employees who apply for it, but also specifies that it is the employer's responsibility to determine when an employee's absence should be considered as protected leave under this law. The university has the legal authority to consider an employee's absence as family and medical leave when it has sufficient evidence that the absence is due to an FMLA-qualifying reason, or the circumstances of the absence are such that the university should reasonably suspect that the absence is for an FMLA purpose, even if the employee has not applied for family and medical leave. [Consistent with federal law and regulations, if an employee is absent for more than three \(3\) working days and the university has sufficient evidence that the absence is due to an FMLA-qualifying reason, the university may place the employee on leave pursuant to the FMLA.](#) The office of human resources will notify the employee in writing and the necessary paperwork provided to the employee for completion.

An employee requesting leave under the FMLA provision must contact the office of human resources, who will inform the employee about the procedure and the need to submit complete and sufficient supporting medical and/or military documentation. The university requires medical certification to support a request for Family and Medical Leave, the employee will have 15 calendar days from the date he/she receives the FMLA packet from the office of human resources to provide the university with such certification. **Failure to provide the medical certification may result in a delay or denial of the requested leave.** The office of human resources has final approval of all family leave requests.

When leave is foreseeable, an employee must give the university 30 days advance notice. In addition, when foreseeable leave is for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the university's

operations. If it is not possible to provide 30 days notice, as much notice as is practical must be provided.

An employee on leave is required to report any change in his/her status, duration of leave, or intent to return to office of human resources. During the leave, the university may require periodic recertification supporting the need for leave.

Pay and benefits during leave

The office of human resources will promptly inform the employee of the status of pay and benefits. FML is unpaid; however, the employee is required to use their accrued paid leave (vacation, sick leave or compensatory time) concurrently with FML during the absence. An employee must follow the same terms and conditions of the leave policies that apply to other employees for use of paid leave.

If an employee does not have accrued paid leave available, the FML will be unpaid. While on an unpaid FML, employees will not accrue sick or vacation time during a month in which they have not been paid for 80 or more hours. Additionally, employees on FML may not be paid for a holiday(s) that occurs during the period that they are on family and medical leave.

While on leave, in order to be paid for the holiday(s), an employee must use accrued time the day before the holiday occurs. For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday. Similarly, if for some reason the university's business activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., Christmas break), the days the employer's activities have ceased do not count against the employee's FMLA leave entitlement.

Continuation of benefits during family and medical leave: For the duration of the approved family and medical leave, the university will maintain the employee's benefits at the same level and under the same conditions as if the employee had continued work. The employee is required to continue to pay his/her contribution to dependent insurance or other elective benefit costs. If on paid leave, premiums will be deducted from pay as usual. If some or all of the leave will be without pay, information on how and when to make premium payments will be provided to the employee. If necessary, employees will be allowed to discontinue coverage and be reinstated to the plan, if they return to work on or before expiration of the family and medical leave.

If the employee does not return to work with the university, or returns for less than a period of 30 days after the leave has ended, the employee will owe the university the cost of any benefits provided during the entire duration of the family and medical leave, including the employer

contribution to the employee's health benefits. No such amount shall be owed if there is a reoccurrence or onset of a serious health condition, or if, in the opinion of the university, there is a change of circumstances beyond the employee's control.

Return to work

Employees should notify the office of human resources of their intent to return to work two weeks prior to the anticipated date of return, or of any medically necessary changes in the date of return. If the leave was due to a serious health condition as defined by the FMLA, the university will require a "fitness for duty" certification from the health care provider, verifying the employee's ability to return to work, with or without restrictions. Employees may also be required to submit to a medical examination before returning to work. If employees return to work on or before the expiration of available FML, they will normally be returned to their former position or an equivalent job. If, however, they do not return at the expiration of FML, there is no guarantee of reinstatement.

7.9 ~~Funeral leave~~ Bereavement leave

Full-time employees may be excused from work, with pay, in ~~the event of a~~ relation to the funeral for their death of a spouse, ~~/e,~~ domestic partner, children/~~step-children/~~ son-in-law / daughter-law / children of domestic partner, ~~,~~ mother, ~~step mother /~~ mother-in-law / mother of domestic partner, father/~~step-father /~~ father-in-law / father of domestic partner, ~~,~~ brother/~~step-brother /~~ brother-in-law, brother of domestic partner, sister/~~step sister/~~ sister-in-law/ sister of domestic partner, grandchildren / ~~step-grandchildren,~~ ~~,~~ grandparents ~~and /~~ great-grandparents ~~/~~ ~~,~~ domestic partner children, mother, father, brother, sister, grandchildren, grandparents and great-grandparents, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, step-children, step-father, step-mother, step-brother, step-sister, ~~step-grandchildren,~~ step-grandparents, and step-great grandparents / grandparents of domestic partner, - or an adult who stood 'in loco parentis' during childhood, or any other individual with whom the employee had a close relationship. The employee's supervisor may grant funeral bereavement leave for up to five (5) ~~consecutive~~ workdays for each funeral death involving a family member or other individual listed in this policy. Time not worked because of funeral bereavement leave will be paid at the full-time employee's regular, straight time, hourly rate.

Grievance Procedures

G7.02-10 Grievance Procedures

This grievance procedure is designed to address both disciplinary actions and complaints and disputes between the employee and the university over working relationships, working conditions, employment practices or differences in interpretation of policies. This grievance procedure applies only to non-probationary, full-time employees. The grievance steps available to an employee is dependent on the nature of the grievance. Not all grievance steps listed below are available in all circumstances. Each step specifies when it is available to an employee. Union employees are covered by the grievance procedure established in the Memorandum of Agreement between the university and The International Brotherhood of Electrical Workers (IBEW), AFL-CIO, Local No. 453 and The International Brotherhood of Teamsters Local Union 245.

This grievance procedure does not apply to employees who have been subjected to disciplinary action, up to and including termination of employee, pursuant to [Op1.02-11 Title IX Sexual Harassment Grievance Procedure Policy](#), as such policy includes its own specific grievance procedure.

When an issue or dispute regarding general employment matters arises between an employee and his/her supervisor or co-worker, the employee is encouraged to first discuss the concern with his/her immediate supervisor or the Office of Human Resources. Many general concerns may be resolved through this dialogue and communication.

Employees who believe they have a legitimate grievance may undertake the following procedure in order to resolve the matter. In certain circumstances, employees may be suspended either with or without pay, as determined appropriate by the university, pending the outcome of the grievance procedure. In cases of employment termination, the grievance procedure may be utilized after the termination effective date.

As outlined in the *Missouri State University Nondiscrimination Policy* (see [Chapter 2](#)), the University maintains a grievance procedure incorporating due process available to any person who believes he or she has been discriminated against on the basis of a protected class. Missouri State University is an Equal Opportunity/Affirmative Action/Minority/Female/Veterans/Disability/Sexual Orientation/Gender Identity employer. Inquiries concerning the complaint/grievance procedure related to ~~any protected class, sex discrimination, including sexual harassment and sexual assault, should be addressed to the Title IX Coordinator, Carrington Hall 205, 901 S. National Ave., Springfield, Missouri 65897, TitleIX@MissouriState.edu, 417-836-8506, or to the Office for Civil Rights. All other inquiries concerning the grievance procedure, the~~ Affirmative Action Plan, or compliance with federal and state laws and guidelines should be addressed to the Equal Opportunity Officer, [Office for Institutional Equity and Compliance](#), Carrington Hall 205, 901 S. National Ave., Springfield,

Missouri 65897, Equity@MissouriState.edu, [417-836-4252](tel:417-836-4252), or to the Office for Civil Rights. (Res. Board Policies No. 70-11; Bd. Min. 10-28-11.)

10.5 Step 5 - Appeal to the Board of Governors

No disciplinary action may be appealed to the Board of Governors except ~~for dismissal (i.e., termination of employment)~~as permitted by a contractual right (i.e. collective bargaining agreement). In such cases ~~an appeal to the Board of Governors must be made in writing by the employee, and must be filed with the university president within ten (10) workdays following the issuance of the findings by the university president; otherwise the findings and resulting dismissal become final. Upon receipt of the written appeal, the university president will notify the chair of the Board of Governors. In its sole discretion, the Board may either hear the appeal, or refuse to hear the appeal (thereby affirming the findings of the university president and the employee's dismissal). In the event that the Board decides to hear the appeal, the chair of the Board will schedule the grievance appeal for hearing at the next regular Board meeting, or as otherwise determined appropriate by the chair of the Board. The appeal may be formal or informal, and the time and place of such appeal will be communicated within a reasonable time to all parties involved. The Board, or its designated committee, shall have access to all facts and information it may feel are relevant and material to the issue. Parties involved in the appeal may be represented by counsel. The presiding officer selected by the Board of Governors will rule on all questions of evidence and procedure. Upon conclusion of such appeal, the Board or its designated committee will render a finding in writing which will be final, the appeal will be managed pursuant to the terms of the contract permitting the appeal.~~