

# University of Kansas Medical Center (Revised 5/08)

## Retaliation Policy Statement

The University of Kansas Medical Center prohibits retaliation against individuals who engage in protected activities. Encouraging others to retaliate also violates this policy.

### Definitions

Protected activities include reporting suspected “wrong-doing” (including discrimination, illegal harassment, unethical or unprofessional conduct, scientific or research misconduct and noncompliance with institutional policies/procedures), serving as a witness in the related investigation or opposing illegal practices/activity.

Retaliation is generally defined as an adverse action taken because an individual has engaged in protected activities. Retaliatory actions include:

- Materially adverse action(s) that would dissuade a reasonable person from making or supporting allegations of “wrong-doing” as defined above. The surrounding circumstances will be considered when evaluating the effect of such action(s). Petty slights, minor annoyances or a simple lack of good manners do not constitute a materially adverse action.
- Action(s) that negatively impact any of the following:
  - significant terms or conditions of employment (such as salary, demotion, termination, non-reappointment)
  - educational progress (such as grades, entry into or advancement through an educational program, suspension, expulsion)
  - the work/learning environment (such as harassment, undesirable conditions)

Complaints are handled internally through the procedure outlined below.

## Retaliation Complaint Procedure

### General Principles

The University of Kansas Medical Center is committed to resolving retaliation claims at the earliest and most informal level, conducting internal investigations in a timely and effective manner, adhering to the principles of due process in all investigations and hearings, and providing prompt corrective action if retaliation is found to have occurred.

The Associate Vice Chancellor for Compliance (AVC-C) or designee is available to answer questions or provide advice regarding compliance issues or concerns to faculty, staff, residents and students, regardless of whether or not they wish to file a complaint. The University reserves the right to modify and/or amend the procedures outlined below at any time. In the event the

University determines that circumstances warrant modification or amendment of any part of these procedures, timely notice shall be delivered in writing to all relevant and affected parties.

### Purpose and Jurisdiction of the Retaliation Complaint Procedure

This procedure is restricted to complaints which allege retaliation for participating in a protected activity. Protected activity may include, but is not limited to, filing a discrimination complaint, whistleblowing or bringing suspected misconduct to appropriate university officials.

Aggrieved parties are referred to as complainants. Persons alleged to have engaged in retaliation are referred to as respondents. This procedure is internal to the University and applies to incidents that take place at the University and its affiliated off-site locations, or are related to University operations. Individuals who may use this procedure include, but are not limited to: individuals applying for enrollment or employment to the University; students; regular and research faculty, including those with visiting appointments; teaching or research assistants; research associates; residents and fellows; classified and unclassified employees; university administrators; and users of University services.

### Responsibility for Implementation

The AVC-C has overall responsibility for assuring that individuals who participate in protected activity are protected from retaliatory actions which have a negative effect upon terms and conditions of employment, educational progress, or the working and learning environment; providing internal mechanisms for reporting allegations; receiving and investigating internal claims; and maintaining an effective and impartial complaint investigation process.

The Vice Chancellor for Administration and the Executive Vice Chancellor are empowered to appoint an alternate investigator at their discretion and as circumstances require.

University Counsel is empowered to request that an investigation be conducted by the AVC-C or designee to ensure that resulting documentation is covered by attorney-client privilege.

### Complainants

Complaints may be filed by the following individuals: individuals who believe they have been subjected to retaliatory action and department heads, school deans or University administrators who believe that retaliation has occurred in a unit they oversee.

### Confidentiality

Complainants, respondents, witnesses and others involved shall refrain from disclosing information about the case to anyone who does not have legitimate need or right to know. Violations of confidentiality may result in charges of unprofessional conduct.

### Timelines

The date upon which a complaint is received shall be referred to as the case filing date. Time limits set forth in these procedures may be extended by the AVC-C at his/her discretion or upon written request from the complainant, respondent, or the unit head. The AVC-C shall inform the parties when extensions of time limits are made.

To facilitate resolution or investigation, complaints should be brought forward within 30 days, or as soon as possible, after the alleged act of retaliation. Allegations shall be made in writing, and filed with or referred to the AVC-C.

### Jurisdiction Decision

The AVC-C will determine whether issues fall within the purview of these procedures within fifteen (15) working days after receiving written allegations. The complainant will be notified in writing if the issues do not fall within the purview of these procedures, and will be provided with recommendations for other options to address the issue. No appeal may be made internally of the jurisdiction determination.

### Preliminary Assessment of Allegations

If the complaint falls within the purview of these procedures, the AVC-C will discuss the investigative process with the complainant, obtain additional information if necessary, and begin a preliminary assessment of allegations to determine if an investigation is warranted. The complainant will be notified in writing if an investigation is not warranted. No appeal may be made internally of this determination. When an investigation is warranted, the process outlined below will be followed.

### Investigative Process

1. The AVC-C or designee will provide a copy of these procedures to the complainant and respondent, and address any questions about the investigative process
2. The AVC-C or designee will provide notice of the complaint to the appropriate unit head(s) and relevant University officials. Generally, this will include the department chair or director and the dean or vice chancellor of the unit involved, as well as University Counsel.
3. The AVC-C or designee will acquire information from appropriate sources in an attempt to verify allegations raised in the complaint by consulting with individuals who either have direct knowledge of the alleged incidents and/or are in a position to gather or generate information relevant to the allegations. When appropriate, the AVC-C may issue written requests for information, and establish deadlines for receiving written responses. Refusal of a respondent to answer a charge or participate in the proceedings will not prevent an investigation from occurring and may result in an outcome based solely on complainant testimony and evidence. The complainant will be offered an opportunity to respond to the respondent's articulated reasons for taking actions which are alleged to be retaliatory.

4. The AVC-C will prepare a written investigative report within sixty (60) working days after determining jurisdiction, review the report with appropriate university officials and when justified by the findings, initiate discussions with University officials who are authorized to develop an administrative response.
5. Within seven (7) working days after the administrative review, the AVC-C will provide the complainant, respondent, Chair or Director, and Dean or Vice Chancellor with a written investigative summary.
6. No appeal may be made internally of the University's finding.

#### Determination of Disciplinary Action

1. Students. Each school administers its own student conduct system, and determines any disciplinary actions against students which might arise from a complaint of student misconduct. Procedures and appeal processes are detailed in the Student Handbook.
2. Employees, Faculty and Residents. Deans and Vice Chancellors or their designees are responsible for identifying an appropriate administrative response including nonpunitive corrective measures and, in consultation with the appropriate Human Resource Department, disciplinary actions. Disciplinary actions to be considered will vary in type, intensity and duration, depending on the specifics of each case. All disciplinary action, with the exception of termination or dismissal, may include mandatory training sessions.
3. Appeal of Disciplinary Action. Should the administrative response result in disciplinary action for the respondent, s/he may seek review of the action through appropriate internal appeal procedures as provided in the Faculty/Unclassified Handbook, Graduate Medical Education Handbook for Residents, House Staff Manual, applicable Union contract, State Civil Service Procedures, or the Student Handbook.

#### Records Management

The AVC-C shall maintain all records for complaints filed pursuant to these procedures, including the complaint, the response, investigative report and summaries, materials considered in the course of the investigation, the administrative response, and any documentation which confirms that administrative actions were taken. Records shall be retained in the office of the AVC-C or in archived files for at least five years.