



1. Call to Order
2. Approval of the May 7, 2024 Senate Minutes (Action)
3. Report of the Chair
4. Special Order
Veronica Marin
Director, University Senate
Orientation: Senators, Senate Meetings, and Shared Governance
5. 2023-2024 Senate Legislation Log (Senate Document #24-25-01) (Information)
6. 2024 Council of University Staff Elections (Senate Document #23-24-33) (Information)
7. Technical and Legal Updates to VI-1.00 (B) University of Maryland Non-Discrimination Policy and Procedures (Senate Doc #23-24-15) (Information)
8. Technical and Legal Updates to VI-1.60 (A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct (Senate Doc #23-24-16) (Information)
9. Review of UMD Policy X-3.01 (A) Concerning Telephone Billing (Senate Doc #22-23-20) (Information)
10. Approval of the 2024-2025 Committee & Council Slates (Senate Document #24-25-02) (Action)
11. New Business
12. Adjournment



CALL TO ORDER

Chair Jarzynski called the meeting to order at 3:15 p.m.

Chair Jarzynski welcomed new Senators. Chair Jarzynski reviewed the procedures and guidelines for the virtual Senate meeting including expectations, audio recording, discussion, and voting. Chair Jarzynski provided a brief overview of voting procedures using the Turning Point platform.

ELECTION OF THE SENATE CHAIR-ELECT (ACTION)

The Nominations Committee identified three candidates for Chair-Elect: Sarah Dammeyer, Exempt, College of Arts and Humanities (ARHU), Adrienne Mayo-Brown, Exempt, College of Education (EDUC), and Alka Gandhi, PTK, College of Behavioral and Social Sciences (BSOS), were identified as the candidates for Chair-Elect. Nominations from the floor were solicited. One additional nomination was received from Senator Mohammad Hajiaghayi, TTK, College of Mathematics and Natural Sciences (CMNS). Sarah Dammeyer was elected Chair-Elect.

SPECIAL ORDER: PRESIDENTIAL BRIEFING

President Darryll J. Pines was not able to attend the meeting due to a scheduling conflict.

APPROVAL OF THE MINUTES, APRIL 23, 2024 MEETING

Chair Jarzynski asked if there were any corrections or additions to the minutes as distributed.

Larry Herman, PTK, CMNS, said there was an error on the footer of the PDF.

Chair Jarzynski asked that this be corrected in the minutes and asked if there were any other corrections. Seeing none, the minutes were approved as corrected.

TRANSITION MEETING SLATE 2024-2025 (SENATE DOCUMENT #23-24-31) (ACTION)

Chair Jarzynski stated that all Senators and Deans should have received the slates and statements for all the candidates running in the Transition Elections for the Senate's elected committees and councils with the meeting materials. Chair Jarzynski stated that the committee and council elections will be held online immediately after the Senate meeting and provided instructions for online voting for the Transition Elections.

Nominations were taken from the floor for faculty, staff, and student representatives for the Senate Executive Committee (SEC), the Committee on Committees, the University Athletic Council, the Council of University System Faculty (CUSF), and the Campus Transportation Advisory Committee (CTAC).

Julia Babula, Undergraduate, CMNS, nominated Rustan Biswas, Undergraduate, BMGT, as a candidate for the SEC.

Sophia Conrad, Undergraduate, SPHL, self-nominated for CTAC.

Diganta Das, PTK, ENGR, self-nominated as a candidate for CTAC.

Hearing no further nominations, Chair Jarzynski stated that Senators will have until 12:00 p.m. on Friday, May 10, 2024, to complete online voting. Winners will be announced after voting is closed.

RESOLUTION TO DEVELOP A SPECIAL COMMITTEE FOR POLICY REVIEW (ACTION)

Chair Jarzynski invited Rochelle Newman, Past Chair and TTK, BSOS, to present the proposal. Newman provided background and information on the proposal.

Chair Jarzynski thanked Newman and opened the floor for discussion.

Alka Gandhi, TTK, BSOS, inquired whether the committee would await a formal charge. Newman responded that the committee would proactively review all UMD policies and make recommendations.

Larry Herman, PTK, CMNS, asked if PTK faculty would also be able to participate. Newman confirmed that both TTK and PTK faculty are welcome to participate.

Daniel Ostick, Exempt, VPSA, current composition of the committee includes more faculty than staff and suggested that staff representation should be reconsidered. Chair Jarzynski indicated that an amendment would have to be proposed and voted on if changes to the committee's composition were to be considered.

Jeffrey Hollingsworth, Vice President and Chief Information Officer asked whether the committee is expected to refer identified policies to a corresponding committee or council. Newman replied that the committee would identify the necessary actions, and the recommendations would be sent to the SEC, which would then assign the relevant committee or council to address the work.

Diganta Das, PTK, ENGR, inquired about the scope of the policy review, specifically regarding the timeframe covered. Newman responded that the committee would start with the earliest policies and proceed chronologically to more recent ones, which are anticipated to present fewer issues. Newman further stated that the committee would have the discretion to conclude the review once it determines that the policies are no longer outdated.

Debbie Simpkins, PTK, AGNR, inquired whether the current review overlaps with the responsibilities of the Plan of Organization Committee (PORC) and their charge. Newman responded that the PORC is tasked exclusively with reviewing plans of organization, not policies that have been approved by the Senate, unless PORC has been specifically charged to do so.

Isaac Moradi, PTK, CMNS, expressed that this review is essential. Moradi further noted that, having served on the Senate intermittently over the past ten years, he is aware of the existence of outdated policies. Moradi suggested that it would be prudent for the SEC to review the policy and consider delegating it to the appropriate committees for further action.

Newman concurred, adding that due to the lack of previous reviews, a significant backlog of policies has accumulated. Newman further stated that the extent of the records is currently unknown.

Tin Nguyen, Graduate, CMNS, inquired about the jurisdiction of this committee, asking whether its scope would be limited to university-wide policies or if it would extend to college or departmental policies. Nguyen noted that certain departments, such as Computer Science, have dedicated departmental councils or committees for policy review. Nguyen asked for clarification on whether the committee would review only university-wide policies or also include departmental policies, given that CMNS has its own committee for such matters. Newman clarified that the review would be confined to Senate-wide policies and would not extend to departmental policies. Only those policies that are submitted to the President fall within the scope of this review.

Brynne Norton, TTK, LIBR, sought clarification regarding the mention of a library ex-officio member. Norton asked whether this meant that library faculty would be excluded from appointment to faculty seats on the committee, or if the ex-officio role was simply an additional position. Newman responded that the intention is not to exempt library faculty from being appointed to the faculty seats. Rather, the libraries would appoint one individual as an ex-officio member to represent the libraries. This appointment is due to the likelihood that the libraries possess older records relevant to the committee's work. The ex-officio member would be able to provide context regarding the types of information that might be stored or available on campus.

Chair Jarzynski asked for further questions.

Hearing none, Chair Jarzynski called for a vote on this proposal. The result was 119 in favor, 8 opposed, and 5 abstentions. The proposal passed.

REPORT OF THE OUTGOING CHAIR, CHRISTOPHER JARZYNSKI

Chair Jarzynski thanked the continuing and incoming Senators for their work and participation with the Senate.

REPORT OF THE INCOMING CHAIR, JORDAN SLY

Chair Sly expressed gratitude to Jarzynski for his dedicated service to the Senate and presented him with a plaque in recognition of his service as Chair.

Chair Sly also extended thanks to Past Chair Newman for her additional year of commitment to the Senate. Furthermore, Chair Sly acknowledged the University Senate Office for the exceptional support they provide to the Senate Chairs, leadership, and committees.

Chair Sly then highlighted the significance and distinctiveness of the University's Senate in representing shared governance, emphasizing the Senate's role in representing the entire campus. Chair Sly underscored the importance of shared governance in fostering a diverse range of responses to the challenges faced by the University and expressed appreciation to all Senators for their dedication to this principle.

Chair Sly proceeded to share the Senate meeting schedule for the 2024-2025 academic year. The schedule attempts to balance meetings between the Wednesday schedule and the Tuesday/Thursday schedule to accommodate Senators who might have class conflicts. Senate meetings will continue to be held from 3:15 p.m. to 5:00 p.m. All meetings will be conducted via

Zoom, except for the State of the Campus Address, which will be held in person with a virtual option available for those who require it.

NEW BUSINESS

Paul Paukstelis, TTK, CMNS, requests a reexamination of the policy on excused absences, with particular attention to policies regarding absences for religious reasons.

Paukstelis emphasized the importance of this review due to recent changes in the Maryland Code, specifically the 2023 update, which includes Section 15, Subsection 137. This section mandates that each institution of higher education in Maryland adopt a written policy providing reasonable academic accommodations for students to practice sincerely held faith-based or religious beliefs. Paukstelis provided a brief overview of the relevant section, which requires:

1. A policy that offers accommodations, including excused absences, for students to observe religious holidays or participate in religious activities.
2. The provision of reasonable alternative accommodations for students who miss examinations or other academic requirements due to such excused absences.
3. A grievance procedure to report non-compliance with the policy.

Paukstelis noted that the current university policy on excused absences does not adequately address the requirements of the updated statute. Paukstelis cited instances within his department where this issue had arisen, resulting in differing interpretations and responses, which highlighted the need for clear guidance. Paukstelis concluded that this matter would be best addressed through the Senate and its committees.

Chair Sly acknowledged Paukstelis' request and sought clarification on the motion, asking if Paukstelis was requesting that the issue be referred to the Senate Executive Committee (SEC) for further action. Paukstelis confirmed this request.

A motion was then made to charge the SEC with the review of the policy on excused absences. The motion was seconded.

Chair Sly called for a vote on the proposal. The motion passed with 98 in favor, 11 opposed, and 14 abstentions.

ADJOURNMENT

The meeting was adjourned at 4:22 p.m.



Senate Legislation Log

PRESENTED BY Veronica Marin, Executive Secretary & Director

REVIEW DATES SEC – August 19, 2024 | SENATE – September 5, 2024

VOTING METHOD For information only

RELEVANT POLICY/DOCUMENT N/A

NECESSARY APPROVALS N/A

ISSUE

The Senate Legislation Log is an overview of the work brought to the Senate during the 2023-2024 academic year. The log shows all completed legislation as well as dates of subsequent approvals following Senate approval. In addition, there is a table of continuing legislation that was not completed last year, but will continue into the 2024-2025 academic year.

RECOMMENDATION(S)

The Legislation Log is provided for informational purposes.

COMMITTEE WORK

N/A

ALTERNATIVES

N/A

RISKS

N/A

FINANCIAL IMPLICATIONS

N/A

Completed University Senate Legislation 2023-2024

Senate Document Number	Action	Date of Senate Meeting Action	Disposition	Approval Date(s)	Completion Date
23-24-30	Resolution to Protect Prescription Insurance for Maryland State Retirees	N/A	Complete		04/08/2024

Pending University Senate Legislation 2023-2024

Senate Document Number	Name	Requester	Reviewing Committee	Date Received	Senate Status
<i>Legislation Reviewed from Prior Years</i>					
13-14-37	Revisions to the School of Public Health (SPHL) Plan of Organization	School of Public Health (SPHL)	Elections, Representation, & Governance (ERG) Committee	09/02/2013	Under Review.
19-20-15	Campus Transportation Advisory Committee (CTAC) Senate Reorganization	J. David Allen, Director, Department of Transportation	Elections, Representation, & Governance (ERG) Committee	09/13/2019	Under Review.
19-20-24	Revisions to the School of Public Policy (PLCY) Plan of Organization	School of Public Policy (PLCY)		10/29/2019	Complete.
19-20-33	Review of the University of Maryland Policy on Threatening and Intimidating Conduct	Senate Office	Equity, Diversity, & Inclusion (EDI) Committee	11/25/2019	Under Review.
20-21-14	Review of the University of Maryland Policy and Procedures on Conflict of Interest and Conflict of Commitment	Laurie Locascio, Vice President for Research	Research Council	10/12/2020	Under Review.
21-22-11	Revision to the Final Exam Provision in the University of Maryland Policy on the Conduct of Undergraduate Courses and Student Grievance Procedure	Doug Roberts, Associate Dean for General Education		09/08/2021	Complete.
21-22-13	Student Fee Process	Kislay Parashar, Student Body President; Tamara Allard, Graduate Student Government President; Scott Cronin, Residence Hall Association President	Vice President for Finance & Chief Financial Officer	09/01/2021	Under Review.
21-22-14	Review of the Interim University of Maryland Policy and Procedures on the Naming of Facilities and Programs	President's Office	Educational Affairs Committee	09/15/2021	Under Review.
21-22-16	Implementation of a SGA Ex-Officio Representative on the Senate Standing Committee for Academic Procedures and Standards	Madhuika C. Nallani, UMD SGA Director of Academic Affairs	Senate Executive Committee (SEC)	10/07/2021	Under Review.
21-22-30	Review of the University of Maryland Plan of Organization for Shared Governance	Senate Executive Committee	Plan of Organization Review Committee (PORC)	01/24/2022	Under Review.
21-22-35	Plan of Organization Review Committee (PORC) Review of the Relationship Between the Senate and the University's Student Organizations	ERG Committee	Plan of Organization Review Committee (PORC)	05/09/2022	Under Review.
22-23-13	Review of the Interim University of Maryland Consulting Policy (II-3.10(E))	Reka S. Montfort, Director, Research Transparency & Outreach	Research Council	10/14/2022	Under Review.
22-23-17	Technical Revisions to the University of Maryland Procedures on Conflict of Interest and Conflict of Commitment	Patrick O'Shea, Chair, Conflict of Interest Committee and Beth Brittan-Powell, Director, Conflict of Interest Office		11/09/2022	Complete.
22-23-19	Proposal to Amend the Reasonable Accommodations Guidance in the UMD Policy on Excused Absence IV-1.00 (G)	Emily Lucio, ADA/504 Coordinator	Senate Executive Committee (SEC)	10/04/2022	Under Review: SEC voted to delay proposal consideration.
22-23-20	Request to review UMD Policy X-3.01(A) Concerning Telephone Billing	Jeffery Klauda, IT Council Chair		12/07/2022	Under Review.
22-23-21	Request to review UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service	Jeffery Klauda, IT Council Chair		12/07/2022	Complete.
22-23-22	Proposal to Amend Bylaws of the University Senate: inclusion of the process for Intellectual Property Committee membership	Wille Brown, Interim Senate Director		12/15/2022	Complete.
22-23-23	Proposal to Increase CUSF and CUSS Senate connections	Rochelle Newman, Professor, Senate Chair, Department Chair	Plan of Organization Review Committee (PORC)	12/14/2022	Under Review.
22-23-24	PCC Proposal to Establish a Post-Master's Certificate in Supporting Immigrant Students for Professional School Counselors	PCC Committee		01/27/2023	Complete.
<i>Legislation Reviewed from 2023-2024</i>					
23-24-01	2022-2023 Legislation Log	University Senate Office	Senate	08/14/2023	Complete.
23-24-02	Approval of the 2023-2024 Committee & Council Slates	Committee on Committees		08/14/2023	Complete.
23-24-04	Proposal to Review the Interim University of Maryland Organizational Conflicts of Interest Policy (II-3.10(F))	Office of the President	Research Council	08/15/2023	Under Review.
23-24-05	Proposal to Modify the Student Conduct Modification Regarding Housing Termination	James Bond		08/28/2023	Complete.
23-24-06	PCC Proposal to Rename the Department of "African American Studies" to "African American and Africana Studies"	Ashley Newby		08/30/2023	Complete.
23-24-07	PCC Proposal to Rename the Upper Division Certificate in "African American Studies" to "African American and Africana Studies"	Ashley Newby		08/30/2023	Complete.
23-24-08	PCC Proposal to Rename the Bachelor of Arts in "African American Studies" to "African American and Africana Studies"	Ashley Newby		08/30/2023	Complete.
23-24-09	Revision to the Robert H. Smith School of Business Plan of Organization			09/25/2023	Complete.
23-24-10	Revisions to the College of Agriculture & Natural Resources Plan of Organization			09/25/2023	Complete.
23-24-11	PCC Proposal to Establish a Master of Science in Data Science	PCC Committee		09/29/2023	Complete.
23-24-12	PCC Proposal to Establish a Master of Science in Bioinformatics and Computational Biology	PCC Committee		09/29/2023	Complete.
23-24-13	PCC Proposal to Establish a Master of Science in Applied Machine Learning	PCC Committee		09/29/2023	Complete.
23-24-14	Nominations Committee Senate Slates 2023-2024	Committee on Committees		10/27/2023	Complete.
23-24-15	Technical and Legal Updates to VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures	Angela Nastase, Director and Title IX Coordinator, Office of Civil Rights and Sexual Misconduct	Senate Executive Committee (SEC)	10/26/2023	Complete: The SEC voted on behalf of the Senate to approve the EDI Committee recommendations
23-24-16	Technical and Legal Updates to VI-1.60(A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct	Angela Nastase, Director and Title IX Coordinator, Office of Civil Rights and Sexual Misconduct	Senate Executive Committee (SEC)	10/26/2023	Complete: The SEC voted on behalf of the Senate to approve the EDI Committee recommendations
23-24-17	Procedural Update to VI-1.60(A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct	Angela Nastase, Director and Title IX Coordinator, Office of Civil Rights and Sexual Misconduct	Student Conduct Committee	10/26/2023	Under Review.
23-24-18	Review of the Interim University of Maryland Policy and Procedures for the Use of Facilities and Outdoor Spaces	Senate Executive Committee	Campus Affairs Committee	11/27/2023	Under Review.
23-24-19	PCC Proposal to Establish a Master of Science in Quantum Computing			11/24/2023	Complete.
23-24-20	Policy Regarding Emotional Support Animals		Senate Executive Committee (SEC)	11/21/2023	Under Review: SEC voted to return proposal to proposer.
23-24-21	Policy Regarding Service Animals		Senate Executive Committee (SEC)	11/21/2023	Under Review: SEC voted to return proposal to proposer.
23-24-22	PCC Proposal to Establish a Bachelor's Program in International Relations			11/24/2023	Pending Approval: Waiting on approvals from MHEC Approval, Chancellor's Approval
23-24-23	PCC Proposal to Establish a Department of Global, Environmental, and Occupational Health			11/24/2023	Complete.
23-24-24	PCC Proposal: Establish a Master of Science in Climate Finance and Risk Management	PCC Committee		02/02/2024	Pending Approval: Waiting on approvals from MHEC Approval, Chancellor Approval
23-24-25	PCC Proposal to Establish a Master of Public Administration			02/02/2024	Pending Approval: Waiting on approvals from Chancellor's Approval, MHEC Approval
23-24-26	PCC Proposal to Rename the Bachelor of Science in "Community Health" to "Public Health Practice"			02/02/2024	Complete.
23-24-27	Proposal for Bereavement Policies and Practices Toward an Inclusive Community of Care	M Pease (Doctoral Student, Counseling Psychology), Karoline Trovato (Doctoral Student, Counseling Psychology), Greta Janakauskaite (Doctoral Graduate, Counseling Psychology)	Academic Procedures & Standards (APAS) Committee	12/21/2023	Under Review.
23-24-28	Request to Review University of Maryland Policy and Procedures Concerning the Acquisition of Telecommunication Services and Equipment (X-3.03(A))	Jeffrey Klauda	IT Council	01/24/2024	Under Review.
23-24-29	PCC Proposal to Rename the College of Information Studies to the College of Information	Keith Marzullo		02/01/2024	Complete.
23-24-31	Slates for the 2024 Transition Elections		Nominations Committee		Pending Approval: The Nominations Committee voted to forward its recommendations to the Senate Chair for consideration.

23-24-32	Resolution on the USM Policy II-1.00 – Policy on Appointment, Rank, and Tenure of Faculty	Holly Brewer	Faculty Affairs Committee	05/09/2024	Under Review.
23-24-33	2024 Council of University System Staff Elections	Staff Affairs Committee	Staff Affairs Committee		Complete.
23-24-34	BOR Staff Awards 2023-2024	Council of University System Staff (CUSS)	Board of Regents Review	12/01/2023	Complete: The BOR approved the final Staff Awards for 2024.

Memorandum

To: Jordan Sly, Chair, University Senate

From: Adrienne Mayo-Brown, Chair, University Senate Staff Affairs Committee

Date: June 17, 2024

Re: Council of University System Staff (CUSS) Election Results

During the 2023-2024 academic year, the Staff Affairs Committee was responsible for conducting an election to identify primary and alternate representatives from the University of Maryland (UMD) to serve on CUSS (Senate Document #23-24-33).

The University Senate Office sent announcements to all eligible staff members regarding the elections. All exempt and non-exempt staff employees on regular and contingent II status who are not part of a collective bargaining unit represented by a union were eligible to run for CUSS and vote for CUSS representatives. UMD is entitled to three primary representatives and up to three alternate representatives. The candidacy period ran from April 26–May 10, 2024. The elections took place online via the University Senate website from May 17–May 24, 2024. The election results were reported to all eligible staff members on June 5, 2024.

There were eight nominees. The following staff members were elected to serve as primary representatives: **Meredith Carpenter**, **Kalia Patricio**, and **Maureen Schrimpe**. The three alternate representatives are **Suzanne Ashour-Bailey**, **Adrienne Mayo-Brown** and **Namrata Ram-Andriessens**. All representatives will serve two-year terms starting in August 2024. They will also serve as ex-officio members of the Staff Affairs Committee, as specified in the University Senate Bylaws.

The Staff Affairs Committee respectfully requests that these election results be announced to the University Senate at the first meeting of the 2024-2025 academic year.

Thank you.



Technical and Legal Updates to VI-1.00 (B) University of Maryland Non-Discrimination Policy and Procedures

PRESENTED BY Kim Coles, Chair

REVIEW DATES SEC – May 17, 2024

VOTING METHOD In a single vote

RELEVANT POLICY/DOCUMENT [VI-1.00\(B\)- University of Maryland Non-Discrimination Policy and Procedures](#)

NECESSARY APPROVALS Senate Executive Committee

ISSUE

In October 2023, Angela Nastase, Director, and Title IX Coordinator from the Office of Civil Rights and Sexual Misconduct submitted a proposal to the Senate Executive Committee (SEC) requesting that the policy VI-1.00 (B) University of Maryland Non-Discrimination Policy and Procedures on be reviewed for technical and legal changes. The changes to the policy allow the policy to be consistent with current federal and state regulations.

At its meeting on November 6, 2023, the Senate Executive Committee (SEC) voted to charge the “Technical and Legal Updates to VI-1.00 (B) University of Maryland Non- Discrimination Policy and Procedures” proposal (Senate Document #23-24-15) to the Equity, Diversity, and Inclusion (EDI) Committee.

RECOMMENDATIONS

On April 19, 2024 the U.S Department of Education issued final federal regulations regarding sex-based discrimination under Title IX. The Office of General Counsel (OGC) consulted that the regulations were going to require significant revisions to the policy being reviewed by the subcommittee. The final federal regulations require universities to implement the changes by August 1, 2024. OGC recommended that the proposal be paused to allow for an interim Non-Discrimination policy that encompasses the substantive changes to be developed. The recommendation was made to limit the number of policy drafts existing and avoid confusion for ongoing and new cases.

The Equity, Diversity, and Inclusion Committee deliberated the recommendation and recommends that:

- Due to the U.S Department of Education issuance of final federal regulations regarding sex-based discrimination under Title IX on April 19, 2024, the committee moves to submit its reports and recommendations to the Office of General Counsel, Office of Civil Rights & Sexual Misconduct, and the Office of the President to consider the committee’s work in their development of the interim Non-Discrimination policy.

- Additional definitions be added to Section III of the policy regarding workplace harassment.
- Adding pregnancy as a protected class

COMMITTEE WORK

The Equity, Diversity, and Inclusion Committee established a subcommittee that was tasked with reviewing the charge from the SEC. The subcommittee reviewed the proposed technical and legal changes, as well as related policies, ensuring they were clear to the campus community and aligned with state and federal laws. It was discovered that the proposal revisions aimed to align the University's policy with federal laws. Furthermore, the revisions aimed to clarify ambiguities within policy and update titles and addresses of policy resources. The subcommittee learned that the biggest point of uncertainty was that when surveyed, members of the campus community did not understand the wording of the policy. It was also found that constraints imposed by state and federal law limited the subcommittee's scope of action. The subcommittee consulted with relevant university offices and committees and clarified the purpose behind the proposed changes.

The subcommittee work was presented to the full committee at a meeting on April 5, 2024, where it was approved.

ALTERNATIVES

The Senate could decide not to approve the recommendation.

RISKS

There are no risks to the University in adopting the recommendations.

FINANCIAL IMPLICATIONS

There are no financial implications in approving these recommendations.



Technical and Legal Updates to VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures

2023-2024 Committee

Kim Coles (Chair)
Deneen Brown (Faculty)
Nolan Coble (Graduate Student)
Dannielle Glaros (Ex-Officio VP & Chief Administrative Officer Rep)
Donna Hammer (Exempt Staff)
Tara Holmes (Graduate Student)
Sun Young Lee (Faculty)
Yvette Lerma Jones (Ex-Officio VP Student Affairs Rep)
Cheng-Yu Li (Faculty)
Brian Medina (Ex-Officio VP Diversity & Inclusion Rep)

Lauren Miles (Non-Exempt Staff)
Angela Nastase (Ex-Officio OCRSM Rep)
Thu Nguyen (Faculty)
Anna Petersen (Undergraduate Student)
Shannon Quarles (Non-Exempt Staff)
Tony Randall (Exempt Staff)
Michelle Rodriguez Cruz (Undergraduate Student)
Laura Rosenthal (Ex-Officio Provost’s Rep)
Tunji Sawyer (Exempt Staff)
Shane Walsh (Faculty)

Date of Submission

May 2024

BACKGROUND

In October 2023, Angela Nastase, Director, and Title IX Coordinator from the Office of Civil Rights and Sexual Misconduct submitted a proposal to the Senate Executive Committee (SEC) requesting that the policy VI-1.00 (B) University of Maryland Non-Discrimination Policy and Procedures on be reviewed for technical and legal changes. The changes to the policy allow the policy to be consistent with current federal and state regulations and update internal policy information.

At its meeting on November 6, 2023, the Senate Executive Committee (SEC) voted to charge the “Technical and Legal Updates to VI-1.00 (B) University of Maryland Non- Discrimination Policy and Procedures” proposal (Senate Document #23-24-15) to the Equity, Diversity, and Inclusion (EDI) Committee. (Appendix 1)

COMMITTEE WORK

The EDI Committee began discussing the charge from the SEC at its November 7, 2023 meeting and received the formal charge elements by the committee’s February 5, 2024 meeting. Due to other work assigned to the committee, it was decided that the committee be divided into subcommittees. The subcommittees met during full committee meetings as well as separately to maximize time. The subcommittee assigned to the charge reviewed the proposed technical and legal change and the related policies regarding non-discrimination at the Big Ten organizations.

During the deliberation, the subcommittee regarded whether the proposed changes would allow for the policy to be clear to the campus community and if the changes were of a technical and legal nature. The nature of the policy was discussed by the subcommittee as to which classes of individuals were appropriate to include. The committee additionally consulted with the proposer to better understand the premise behind the proposed changes and the legal requirements. The subcommittee learned that the revisions were intended to align the University’s policy and

procedures with federal law. Additionally, it was learned that the revisions also reduced some ambiguities within the policy and updated titles and updated addresses of policy resources.

As directed in the charge from the SEC, the subcommittee sought input from members of the campus committee on the clarity of the changes. A Google survey was distributed to the committee members of the Faculty Affairs, Staff Affairs, and Student Affairs committees regarding the proposed changes and their clarity. It was discovered from this survey that the proposed changes were clear; however, wording that had previously been added, including definitions regarding harassment in the workplace, was more obscure. After consulting with the proposer, it was decided that additional definitions could be added to bring clarity however, the request was outside of the scope of the current charge.

The subcommittee consulted with a representative from the Office of the Senior Vice President and Provost at a subcommittee meeting on March 25, 2024. The Office of Student Conduct and the Office of the Assistant Vice President & Chief Human Resources Officer were also consulted. All stated that the proposed changes were clear for the groups they individually represented and did not pose an issue to their respective departments.

The subcommittee considered all the feedback and consultation discussions during its review of the Policy and consideration of the charge elements. The subcommittee reported its work to the full EDI committee, which voted to approve the proposed updates at the committee's April 5, 2024 meeting.

RECOMMENDATIONS

On April 19, 2024 the U.S Department of Education issued final federal regulations regarding sex-based discrimination under Title IX. The Office of General Counsel (OGC) consulted that the regulations were going to require significant revisions to the policy being reviewed by the subcommittee. The final federal regulations require universities to implement the changes by August 1, 2024. OGC recommended that the proposal be paused to allow for an interim Non-Discrimination policy that encompasses the substantive changes to be developed. The recommendation was made to limit the number of policy drafts existing and avoid confusion for ongoing and new cases.

The Equity, Diversity, and Inclusion Committee deliberated the recommendation and recommends that:

- Due to the U.S Department of Education issuance of final federal regulations regarding sex-based discrimination under Title IX on April 19, 2024, the committee moves to submit its reports and recommendations to the Office of General Counsel, Office of Civil Rights & Sexual Misconduct, and the Office of the President to consider the committee's work in their development of the interim Non-Discrimination policy.
- Additional definitions be added to Section III of the policy regarding workplace harassment.
- Adding pregnancy as a protected class

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee

Appendix 2 – Proposed Redlined version of changes to the Policy

Appendix 3 – Redlined version of changes to the Policy



**Technical and Legal Updates to VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures (Senate Document #23-24-15)
Equity, Diversity, & Inclusion Committee | Chair: Kim Coles**

The Senate Executive Committee (SEC) and Senate Chair Jarzynski request that the Equity, Diversity, & Inclusion Committee review the University of Maryland Policy Non-Discrimination Policy and Procedures (VI-1.00[B]) for technical and legal revisions.

Specifically, the Equity, Diversity, & Inclusion Committee should:

1. Review the Proposal entitled Technical and Legal Updates to VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures.
2. Review the University of Maryland Non-Discrimination Policy and Procedures ([VI-1.00\[B\]](#)).
3. Review the technical and legal updates as provided in the proposal.
4. Review similar policies and procedures on non-discrimination at Big 10 and other peer institutions.
5. Consult with the Office of Civil Rights and Sexual Misconduct.
6. Consult with the Faculty Affairs Committee.
7. Consult with the Staff Affairs Committee.
8. Consult with the Student Affairs Committee.
9. Consult with the Office of Student Conduct.
10. Consult with the Office of the Assistant Vice President & Chief Human Resources Officer
11. Consult with the Office of the Senior Vice President and Provost.
12. Consider the clarity of the revisions for all members of the campus community.
13. Consult with a representative from the Office of General Counsel on any proposed changes to the University's policy.
14. If appropriate, recommend whether the policy should be revised and if so, provide suggested revisions.

We ask that you submit a report to the University Senate Office no later than **May 3, 2024**. If you have questions or need assistance, please contact the University Senate Office, senate-admin@umd.edu.



VI-1.00(B) UNIVERSITY OF MARYLAND NON-DISCRIMINATION POLICY AND PROCEDURES

(Approved on an interim basis October 1, 2015; Amended March 22, 2016; Amended and approved by the President May 6, 2016; Amended May 2, 2018; Technical amendments approved effective August 14, 2020; Amended and approved on an interim basis by the President August 23, 2021; Amended and approved on an interim basis by the President effective October 1, 2022)

I. POLICY STATEMENT

The University of Maryland is committed to creating and maintaining an educational, working, and living environment that is free from discrimination and harassment. This Policy prohibits discrimination on grounds protected under Federal and Maryland law and Board of Regents policies. University programs, activities, and facilities are available to all without regard to race, color, sex¹, gender identity or expression, sexual orientation, marital status, age, national origin, political affiliation, physical or mental disability², religion, protected veteran status, genetic information, personal appearance, or any other legally protected class. Retaliation against any individual who files a complaint or participates in an investigation under this Policy is strictly prohibited. In furtherance of the University's commitment to equal opportunity, this Policy and associated procedures are established to address and remedy complaints of discrimination, harassment, and retaliation based on a protected class.

The **Office of Civil Rights & Sexual Misconduct (OCRSM)** shall receive all complaints of discrimination and harassment made pursuant to this Policy. Complaints may also be filed online using the Discrimination Complaint Form on OCRSM's website [here](#).

Office of Civil Rights & Sexual Misconduct (OCRSM)

University of Maryland
4113 Susquehanna Hall
4200 Lehigh Road
College Park, MD 20742-5031
E-mail: civilrights@umd.edu

¹ Complaints of ~~discrimination based on sex, gender identity or expression, and sexual orientation that do not involve misconduct of a sexual nature will be addressed under this Non-Discrimination Policy and Procedures (Non-Discrimination Policy). Complaints based on sexual misconduct will be misconduct addressed under covered by the University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct (VI-1.60[A]) (Sexual Misconduct Policy) will be addressed under Policy and Procedures VI-1.60(A), as appropriate. When the Title IX Officer determines based on its initial assessment, or following a mandatory or permissive dismissal, that the alleged sexual misconduct would not constitute a potential violation under ~~the Sexual Misconduct Policy~~ Policy and Procedures VI-1.60(A) if substantiated, the Title IX Officer may refer the report to another University process, including this Non-Discrimination Policy, as appropriate.~~

² The University's policy and procedures for requesting disability accommodations may be found in the University of Maryland Disability & Accessibility Policy and Procedures (VI-1.00[D]). Complaints of discrimination on the basis of disability may be made under this Non-Discrimination Policy.

Commented [A1]: Recommend revising this footnote for clarity and legal sufficiency. Sex-based harassment does not need to be of a sexual nature under the law.

Also, per current Biden administration guidance, sex-based discrimination (which includes harassment) may also include discrimination/harassment based on gender identity or expression and sexual orientation.

Phone: 301-405-1142 | Fax: 301-405-2837
<http://www.ocrsm.umd.edu>

II. APPLICABILITY

This Policy applies to members of the University community, including students, trainees, faculty, staff, and certain third parties (e.g., visitors, volunteers, applicants for admission or employment, vendors, and contractors) while on University property or while participating in University sponsored activities who either carry out discrimination or are subject to it.

This Policy applies to discrimination, harassment, or retaliation:

- on University premises, in any University facility, or on University property; and/or
- at any University sponsored, recognized, or approved program, visit, or activity, regardless of location; and
- that impedes equal access to any University education program or activity or that adversely impacts the education or employment of a member of the University community regardless of where the conduct occurred.

III. DEFINITIONS

“**Day**” means a business weekday when the University is not closed.

“**Discrimination**” is unequal treatment based on a legally protected status that is sufficiently serious to unreasonably interfere with or limit an individual’s opportunity to participate in or benefit from a University program or activity, or that otherwise adversely affects a term or condition of the individual’s employment or education.

“**Harassment**” is a form of Discrimination (as defined above) that encompasses unwelcome conduct based on a person’s protected status. With the exception of the circumstances listed below, Harassment is severe or pervasive conduct that negatively affects the particular individual and also would negatively affect a reasonable person under the same circumstances.

Harassment in violation of this Policy depends on the totality of the circumstances, including the nature, frequency, and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved. Harassing behaviors may include, but are not limited to, the following, when based on a person’s protected status and rises to the standard set forth above:

- conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group;
- epithets, slurs, or negative stereotyping, jokes, or nicknames;
- written, printed, or graphic material that contains offensive, denigrating, or demeaning comments, or pictures; and

- the display of offensive, denigrating, or demeaning objects, e-mails, text messages, or cell phone pictures.

When one of the following three circumstances is present, Harassment based on a person’s protected status is not required to be severe or pervasive and may be established by showing that the alleged conduct was unwelcome and offensive:

1. when submission to the conduct is made either explicitly or implicitly a term or condition of employment of an individual;
2. when submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or
3. based on the totality of the circumstances, the conduct unreasonably creates a working environment for the worker that a reasonable person would perceive to be abusive or hostile.

“**Personal Appearance**” means the outward appearance of any person irrespective of sex with regard to hairstyle, beards, or manner of dress. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed attire when uniformly applied for admittance to a public accommodation or a class of employees for a customary or reasonable business-related purpose.

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- ~~1. when submission to the conduct is made either explicitly or implicitly a term or condition of employment of an individual;~~
- ~~2. when submission to or rejection of the conduct is used as a basis for employment decisions affecting the individual; or~~
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IV. COMPLAINT PROCEDURES

Generally, a complaint filed under another University policy cannot also be addressed under this Policy. Students, staff, and faculty must choose between the different complaint processes available to them.

A. Reporting

Commented [A2]: This revision is suggested for clarity as to the scope of this definition’s coverage, which is based on state law. Md. Code Ann, State Gov’t Art. § 20-601 (eff. Oct. 2022) expanded the definition of harassment in the workplace context. This is also consistent with the proposed addition to the Sexual Harassment & Other Sexual Misconduct Policy based on state law.

Commented [A3]: (1) and (2) are covered under the Sexual Harassment and Other Sexual Misconduct Policy already, under VIII.B.5, “Other Sex-Based Offenses”, subsections (a) and (b).

Commented [A4]: Recommend moving (3) to the Sexual Harassment and Other Sexual Misconduct Policy, under VIII.B.5, new subsection (d).

Individuals who experience violations of this Policy are encouraged to promptly file a complaint with the OCRSM or bring it directly to the attention of their supervisor.

Supervisors, faculty, and University administrators who receive or become aware of a complaint of conduct in violation of this Policy are encouraged to report it to the OCRSM. This does not apply to confidential resources on campus, such as the University Counseling Center, Health Center, Mental Health Services, and University Chaplains.

The OCRSM will review any anonymous complaints it receives. However, the OCRSM may not be able to investigate an anonymous complaint unless sufficient information is furnished to enable it to conduct a meaningful and fair investigation.

B. Timeliness

Complaints must be made within ninety (90) Days of the incident(s) or the last occurrence of the behavior, in cases where continuing behavior is alleged. The OCRSM may waive the time limit upon a showing of good cause.

C. Initial Assessment

Written complaints are encouraged, but not required. If a verbal complaint is made, the OCRSM will prepare a written statement of the allegations and the Complainant will be required to acknowledge its accuracy in writing. The OCRSM will acknowledge receipt of the complaint by sending a notification letter or contacting the Complainant directly within five (5) Days of receipt. Prior to the initial assessment, the OCRSM will hold an initial intake meeting with the Complainant, which may take place in person, by telephone, or via live technology, to understand the nature and circumstances of the complaint and to provide the Complainant with information about resources, procedural options, supportive measures, and an opportunity to discuss the applicable policy and procedures. The OCRSM will then conduct an initial assessment of the complaint to determine whether the complaint should be investigated, and will consider the Complainant's request that the complaint be investigated or not investigated. The OCRSM will then notify the complainant whether:

- the complaint is appropriately filed with the OCRSM and the OCRSM has jurisdiction over the alleged conduct and the Respondent;
- the complaint has previously been filed under another University policy;
- the complaint is suitable for alternative resolution; and
- the allegations, if true, would constitute a Policy violation.

If it is determined that the complaint is not appropriately filed with the OCRSM, the Complainant will be informed of the reason and the OCRSM may inform the Complainant of other possible avenues of redress, such as contacting the University Ombuds Service, University Human Resources (UHR), or the Office of Student Conduct.

D. Alternative Resolution Process

When determined appropriate by the OCRSM, the Complainant may elect to resolve a complaint through Alternative Resolution. The purpose of Alternative Resolution is to resolve the complaint by conference and conciliation. The OCRSM will notify and advise supervisors and other administrators, as appropriate, of the complaint and efforts by the parties to proceed with Alternative Resolution. The OCRSM shall document efforts to resolve the complaint and whether or not those efforts were successful. When Alternative Resolution is successful, the OCRSM shall summarize the resolution in writing, have it signed by the parties, and provide signed copies to the respective parties and supervisors and administrators, as appropriate. The OCRSM will also monitor implementation of the resolution agreement and/or close the case. When Alternative Resolution does not succeed within forty-five (45) Days of the date the complaint is filed, the OCRSM will cease that process and begin the investigation process.

E. Investigation

When the Initial Assessment or a failure of the Alternative Resolution process results in a determination that the OCRSM will investigate the complaint, the OCRSM shall issue a written Notice of Investigation that includes a description of the allegations contained in the complaint and references any applicable policy language and advises the Complainant and Respondent of their rights under this Policy, including the following:

- both parties have a right to an impartial investigation;
- both parties have a right to produce relevant documents, witnesses, and other material they would like the investigation to include; and
- both parties may have an advisor of their choice present to provide advice during the investigative interview; however, the advisor may not speak or act on behalf of the party.

An investigation does not begin until a formal Notice of Investigation has been issued.

The OCRSM will assign an investigator³ who will conduct an adequate, reliable, and impartial investigation of the complaint. As part of the investigation, the investigator will interview the Complainant and the Respondent and any other available relevant witnesses, and review available relevant documents.

The OCRSM has the discretion to determine which parties and witnesses to interview, and the order of party and witness interviews. The OCRSM also determines the relevance of any proffered information or evidence. In general, the OCRSM will not consider statements of opinion over direct observations or reasonable inferences from the facts or statements as to any party's general reputation or character trait.

³ An investigator in the OCRSM, for purposes of state employment regulations, is also considered to be the Fair Practices Officer.

If a party believes that any individual involved in the investigation process, such as the investigator, has a conflict of interest or bias, the parties should contact the Director of the OCRSM immediately upon discovery of the issue, via email at civilrights@umd.edu. Any request must include a description of the conflict or bias. If the OCRSM determines that a conflict of interest or bias may exist, the University will take steps to address the conflict or bias in order to ensure an impartial process.

Upon completion of the investigation, the investigator will make a determination regarding whether a Policy violation has occurred.

1. Standard of Review

In making the determination of whether a Policy violation has occurred, the standard of review is “preponderance of the evidence,” which means it is more likely than not that a Policy violation occurred.

2. Expectation of Cooperation

Absent good cause, all parties and identified witnesses shall cooperate during the investigation by being available during reasonable business hours to discuss the complaint and by making available any relevant information requested by the investigator.

3. Investigation Timeline

The OCRSM seeks to complete an investigation within sixty (60) Days and may extend the time frames set forth in this Policy for good cause. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the alleged Discrimination.

4. False Information

Anyone who knowingly files a false complaint under this Policy or who knowingly provides false information to the OCRSM during an investigation will be subject to appropriate disciplinary action.

5. Written Investigation Report and Findings

The OCRSM shall complete a written report of its investigation, including: (1) a summary of the allegations; (2) evidence reviewed, including relevant documents and information from witnesses; (3) findings of material fact and an analysis of those facts; and (4) a conclusion stating whether the Policy was violated, based on the preponderance of evidence standard. The OCRSM then will issue a *Notice of Findings* and/or provide a copy of the investigation report to the parties and to the appropriate supervisors or department/unit heads, or the Office of Student Conduct, depending on the status of the parties. Copies of the investigation report may be redacted to comply with applicable law.

F. Confidentiality and Privacy

The University makes every effort to protect the privacy of individuals who participate in the investigation process, including witnesses. The OCRSM cannot guarantee confidentiality or anonymity to anyone participating in the investigation process, including Complainants and Respondents. Information related to a complaint under this Policy will only be shared with those individuals who need to know in order to assist in the assessment, investigation, or resolution of the complaint.

V. APPEAL

The Complainant and/or Respondent may appeal the investigation finding within five (5) Days of the date of receipt of the *Notice of Findings* by submitting to the OCRSM at civilrights@umd.edu a written appeal that includes the stated grounds. The scope of the appeal is limited to the grounds set forth below. Mere dissatisfaction with the finding is not a valid basis for appeal. If an appeal is received by the OCRSM, the other party will be notified and given five (5) Days from the date of receipt of that notice to respond by submitting a written statement to the OCRSM at civilrights@umd.edu. All appeals and responses shall include the case name, number, and the party's name and contact information. Appeals filed by more than one party will be considered together in one appeal review process. All appeal documents submitted by a party will be shared with the other party.

If neither party submits an appeal, the decision will be considered final five (5) Days after the last date either party received the *Notice of Findings*. Appeals submitted after five (5) Days shall be denied, except upon a showing of good cause.

A. Grounds for Appeal

Either party may appeal the Finding only on the following grounds:

1. **Substantial Procedural Error**
Procedural errors or errors in interpretation of University policy were so substantial as to effectively deny a Complainant or Respondent notice or a fair opportunity to be heard.
2. **New Evidence**
New relevant, material evidence that a reasonably diligent person could not have discovered prior to the issuance of the *Notice of Findings* has become available.

B. Review

The appealing party has the burden of proof, and the standard of proof is preponderance of the evidence. Appeals are not intended to allow for a review of the entire investigation, with the exception of new evidence, as referenced above. The appellate review will be based on the written record; parties are not entitled to a hearing or meeting with the reviewing administrator or designee.

Appeals will be reviewed in accordance with the Respondent's status as listed below:

- appeals involving a Staff Respondent shall be reviewed by the Vice President and Chief Administrative Officer or designee;
- appeals involving a Faculty Respondent shall be reviewed by the Senior Vice President and Provost or designee;
- appeals involving a Student Respondent shall be reviewed by the Vice President for Student Affairs or designee;
- appeals that do not directly involve a faculty, staff, or student Respondent shall be reviewed by the Vice President & Chief Administrative Officer or designee.

C. Outcome

Upon receipt of the appeal and response, the OCRSM will forward them to the respective Vice President's Office. Within five (5) Days, the Vice President will issue a written determination stating whether the Appeal was granted or denied, including a summary of its rationale (the "Appeal Outcome"). The Appeal Outcome shall either:

- affirm the Finding,
- overturn and Reverse Finding, or
- send the Case Back to the Special Investigator with specific directions to reconsider the Finding.

The decision of the Vice President or designee as set forth in the Appeal Outcome shall be final. The Vice President shall forward a copy of the Appeal Outcome to the OCRSM via email to civilrights@umd.edu. The OCRSM will forward a copy of the Appeal Outcome to the parties and respective supervisor/unit head/department chair or dean/Director of Student Conduct as soon as possible.

VI. RECOMMENDATIONS FOR CORRECTIVE ACTION

At the conclusion of an investigation, the OCRSM may provide the appropriate Vice President, supervisor, and department chair/dean with a *Recommendation for Corrective Action* if there is a finding of a policy violation. The OCRSM may also make a referral for review and response to another University process and/or office as may be appropriate in cases where the conduct at issue may violate other University policies.

The final decision for determining and implementing any necessary corrective action shall remain the responsibility of the appropriate Vice President or designee. The Vice President or designee will notify the OCRSM within ten (10) Days of any corrective action that has been implemented.

The OCRSM is responsible for monitoring efforts to ensure that any ongoing violations of the Policy cease. In the event corrective action requires specific anti-discrimination training not readily available to the parties, the OCRSM will work with the supervisor and/or department/unit head to ensure training occurs as soon as feasible.

VII. DISCIPLINARY ACTION

A. Students

With respect to Student Respondents, the Director of the Office of Student Conduct (OSC) in accordance with the provisions of the Code of Student Conduct is responsible for imposing disciplinary action.

1. Discipline that impacts a student's status with the University includes: expulsion, suspension for a definite or indefinite period, and disciplinary probation for a definite or indefinite period. Expulsion, suspension, and disciplinary probation will be noted on a student's transcript. Disciplinary suspensions and expulsions are subject to the approval of the Vice President for Student Affairs.
2. Discipline that does not impact a student's status with the University includes but is not limited to: educational requirements, "no contact" orders, housing restrictions, community service, and disciplinary reprimand. Failure to comply with any of the sanctions listed above may result in further disciplinary action that could impact a student's disciplinary status with the University.

The OCRSM may provide other remedies, in consultation with the OSC, as appropriate. These remedies will identify reasonable long-term or permanent remedies to address the effects of the conduct on the Complainant, restore the Complainant's safety and well-being and maximize the Complainant's educational and employment opportunities. Remedies may also be identified to address the effects of the conduct on the University community.

Students may appeal discipline imposed as a result of a violation of this Policy in accordance with the Code of Student Conduct.

B. Staff

With respect to Staff Respondents, any disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Assistant Vice President & Chief Human Resources Officer, the Director of the OCRSM, and other relevant administrators, as needed. This may include the following:

- unit transfers;
- reassignment of duties;
- mandatory training;
- verbal reminders;
- written reminders/letters of reprimand;
- suspension without pay;
- suspension pending charges of removal; and
- termination.

Staff may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights.

C. Faculty

With respect to Faculty Respondents, disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Office of the Senior Vice President and Provost, the Director of the OCRSM, and other relevant administrators, as needed. This may include the following:

- reassignment of duties;
- mandatory training;
- verbal reminders;
- written reminders/letters of reprimand;
- suspension with or without pay; and
- termination.

Faculty may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights.

D. Records Retention

The OCRSM will maintain the records relating to the investigation. The respective unit responsible for issuing any discipline will maintain any disciplinary records in accordance with the University's records retention schedule. The respective unit shall also provide a copy of the disciplinary records to the OCRSM.

VIII. EXTERNAL GOVERNMENT AGENCIES THAT ADDRESS DISCRIMINATION COMPLAINTS

Filing an employment Discrimination complaint under this Policy or an alternative campus procedure does not preclude an employee from filing a complaint with the Maryland Commission on Civil Rights, the Equal Employment Opportunity Commission, or the Office for Civil Rights of the U.S. Department of Education.

Complainants who wish to file Discrimination complaints that are not connected with the official functions of the University or not falling within the scope of this Policy, will be referred to appropriate ~~University, County, State, or Federal~~ agencies by the OCRSM.

Equal Employment Opportunity Commission (EEOC)

GH Fallon Federal Building 31 Hopkins Plaza, Suite 1432

Baltimore, MD 21201

Telephone: 1-800-669-4000

Fax: 443-992-7880

TTY: 1-800-669-6820

Website: <https://www.eeoc.gov/>

Commented [A5]: Revision suggested to include the same information that's included in the Sexual Harassment & Other Sexual Misconduct Policy.

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Field Code Changed

Maryland Commission on Civil Rights (MCCR)

William Donald Schaefer Tower
6 Saint Paul Street, Suite 900
Baltimore, MD 21202-1631
Telephone: 410-767-8600
Fax: 410-333-1841
TTY: 410-333-1737
Website: <http://mccr.maryland.gov/>
E-mail: mccr@maryland.gov

U.S. Department of Education, Office for Civil Rights (OCR)

The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
Fax: 215-656-8605
TDD: 800-877-8339
Website: <https://www2.ed.gov/about/offices/list/ocr/index.html>
E-mail: OCR.Philadelphia@ed.gov

Office for Civil Rights—U.S. Department of Education

Philadelphia Office (Regional Office for Maryland)
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215-656-8541
FAX: 215-656-8605
TDD: 800-877-8339
Email: OCR.Philadelphia@ed.gov
Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

Maryland Commission on Civil Rights

Phone: 410-767-8600
Website: <http://mccr.maryland.gov/>

Equal Employment Opportunity Commission

Phone: 800-669-4000
TTY: 800-669-6820
Website: <https://www.eeoc.gov/>

It is important to note that in order to protect certain legal rights and remedies, Complainants must comply with certain time limits and deadlines. Affected persons should contact the relevant agencies listed above to verify time limits for filing. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.



VI-1.00(B) UNIVERSITY OF MARYLAND NON-DISCRIMINATION POLICY AND PROCEDURES

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Office of Civil Rights & Sexual Misconduct (OCRSM)

University of Maryland
4113 Susquehanna Hall
4200 Lehigh Road
College Park, MD 20742-5031
E-mail: civilrights@umd.edu(<mailto:civilrights@umd.edu>)
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Complaints must be made within ninety (90) Days of the incident(s) or the last occurrence of the behavior, in cases where continuing behavior is alleged. The OCRSM may waive the time limit upon a showing of good cause.

C. Initial Assessment

Written complaints are encouraged, but not required. If a verbal complaint is made, the OCRSM will prepare a written statement of the allegations and the Complainant will be required to acknowledge its accuracy in writing. The OCRSM will acknowledge receipt of the complaint by sending a notification letter or contacting the Complainant directly within five (5) Days of receipt. Prior to the initial assessment, the OCRSM will hold an initial intake meeting with the Complainant, which may take place in person, by telephone, or via live technology, to understand the nature and circumstances of the complaint and to provide the Complainant with information about resources, procedural options, supportive measures, and an opportunity to discuss the applicable policy and procedures. The OCRSM will then conduct an initial assessment of the complaint to determine whether the complaint should be investigated, and will consider the Complainant's request that the complaint be investigated or not investigated. The OCRSM will then notify the complainant whether:

- the complaint is appropriately filed with the OCRSM and the OCRSM has jurisdiction over the alleged conduct and the Respondent;
- the complaint has previously been filed under another University policy;
- the complaint is suitable for alternative resolution; and
- the allegations, if true, would constitute a Policy violation.

If it is determined that the complaint is not appropriately filed with the OCRSM, the Complainant will be informed of the reason and the OCRSM may inform the Complainant of other possible avenues of redress, such as contacting the University Ombuds Service, University Human Resources (UHR), or the Office of Student Conduct.

D. Alternative Resolution Process

When determined appropriate by the OCRSM, the Complainant may elect to resolve a complaint through Alternative Resolution. The purpose of Alternative Resolution is to resolve the complaint by conference and conciliation. The OCRSM will notify and advise supervisors and other administrators, as appropriate, of the complaint and efforts by the parties to proceed with Alternative Resolution. The OCRSM shall document efforts to resolve the complaint and whether or not those efforts were successful. When Alternative Resolution is successful, the OCRSM shall summarize the resolution in writing, have it signed by the parties, and provide signed copies to the respective parties and supervisors and administrators, as appropriate. The OCRSM will also monitor implementation of the resolution agreement and/or close the case. When Alternative Resolution does not succeed within forty-five (45) Days of the date the complaint is filed, the OCRSM will cease that process and begin the investigation process.

E. Investigation

When the Initial Assessment or a failure of the Alternative Resolution process results in a determination that the OCRSM will investigate the complaint, the OCRSM shall issue a written Notice of Investigation that includes a description of the allegations contained in the complaint and references any applicable policy language and advises the Complainant and Respondent of their rights under this Policy, including the following:

- both parties have a right to an impartial investigation;
- both parties have a right to produce relevant documents, witnesses, and other material they would like the investigation to include; and
- both parties may have an advisor of their choice present to provide advice during the investigative interview; however, the advisor may not speak or act on behalf of the party.

An investigation does not begin until a formal Notice of Investigation has been issued.

The OCRSM will assign an investigator³ who will conduct an adequate, reliable, and impartial investigation of the complaint. As part of the investigation, the investigator will interview the Complainant and the Respondent and any other available relevant witnesses, and review available relevant documents.

The OCRSM has the discretion to determine which parties and witnesses to interview, and the order of party and witness interviews. The OCRSM also determines the relevance of any proffered information or evidence. In general, the OCRSM will not consider statements of opinion over direct observations or reasonable inferences from the facts or statements as to any party's general reputation or character trait.

If a party believes that any individual involved in the investigation process, such as the investigator, has a conflict of interest or bias, the parties should contact the Director of the OCRSM immediately upon discovery of the issue, via email at civilrights@umd.edu (<mailto:civilrights@umd.edu>). Any request must include a description of the conflict or bias. If the OCRSM determines that a conflict of interest or bias may exist, the University will take steps to address the conflict or bias in order to ensure an impartial process.

Upon completion of the investigation, the investigator will make a determination regarding whether a Policy violation has occurred.

1. Standard of Review

In making the determination of whether a Policy violation has occurred, the standard of review is "preponderance of the evidence," which means it is more likely than not that a Policy violation occurred.

2. Expectation of Cooperation

Absent good cause, all parties and identified witnesses shall cooperate during the investigation by being available during reasonable business hours to discuss the complaint and by making available any relevant information requested by the investigator.

3. Investigation Timeline

The OCRSM seeks to complete an investigation within sixty (60) Days and may extend the time frames set forth in this Policy for good cause. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the alleged Discrimination.

4. False Information

Anyone who knowingly files a false complaint under this Policy or who knowingly provides false information to the OCRSM during an investigation will be subject to appropriate disciplinary action.

5. Written Investigation Report and Findings

The OCRSM shall complete a written report of its investigation, including: (1) a summary of the allegations; (2) evidence reviewed, including relevant documents and information from witnesses; (3) findings of material fact and an analysis of those facts; and (4) a conclusion stating whether the Policy was violated, based on the preponderance of evidence standard. The OCRSM then will issue a *Notice of Findings* and/or provide a copy of the investigation report to the parties and to the appropriate supervisors or department/unit heads, or the Office of Student Conduct, depending on the status of the parties. Copies of the investigation report may be redacted to comply with applicable law.

F. Confidentiality and Privacy

The University makes every effort to protect the privacy of individuals who participate in the investigation process, including witnesses. The OCRSM cannot guarantee confidentiality or anonymity to anyone participating in the investigation process, including Complainants and Respondents. Information related to a complaint under this Policy will only be shared with those individuals who need to know in order to assist in the assessment, investigation, or resolution of the complaint.

V. APPEAL

The Complainant and/or Respondent may appeal the investigation finding within five (5) Days of the date of receipt of the *Notice of Findings* by submitting to the OCRSM at [\[civilrights@umd.edu\]\(mailto:civilrights@umd.edu\)](mailto:civilrights@umd.edu) a written appeal that includes the stated grounds. The scope of the appeal is limited to the grounds set forth below. Mere dissatisfaction with the finding is not a valid basis for appeal. If an appeal is received by the OCRSM, the other party will be notified and given five (5) Days from the date of receipt of that notice to respond by submitting a written statement to the OCRSM at [\[civilrights@umd.edu\]\(mailto:civilrights@umd.edu\)](mailto:civilrights@umd.edu). All appeals and responses shall include the case name, number, and the party's name and contact information. Appeals filed by more than one party will be considered together in one appeal review process. All appeal documents submitted by a party will be shared with the other party.

If neither party submits an appeal, the decision will be considered final five (5) Days after the last date either party received the *Notice of Findings*. Appeals submitted after five (5) Days shall be denied, except upon a showing of good cause.

A. Grounds for Appeal

Either party may appeal the Finding only on the following grounds:

1. Substantial Procedural Error

Procedural errors or errors in interpretation of University policy were so substantial as to effectively deny a Complainant or Respondent notice or a fair opportunity to be heard.

2. New Evidence

New relevant, material evidence that a reasonably diligent person could not have discovered prior to the issuance of the *Notice of Findings* has become available.

B. Review

The appealing party has the burden of proof, and the standard of proof is preponderance of the evidence. Appeals are not intended to allow for a review of the entire investigation, with the exception of new evidence, as referenced above. The appellate review will be based on the written record; parties are not entitled to a hearing or meeting with the reviewing administrator or designee.

Appeals will be reviewed in accordance with the Respondent's status as listed below:

- appeals involving a Staff Respondent shall be reviewed by the Vice President & Chief Administrative Officer or designee;
- appeals involving a Faculty Respondent shall be reviewed by the Senior Vice President and Provost or designee;
- appeals involving a Student Respondent shall be reviewed by the Vice President for Student Affairs or designee;
- appeals that do not directly involve a faculty, staff, or student Respondent shall be reviewed by the Vice President & Chief Administrative Officer or designee.

C. Outcome

Upon receipt of the appeal and response, the OCRSM will forward them to the respective Vice President's Office. Within five (5) Days, the Vice President will issue a written determination stating whether the Appeal was granted or denied, including a summary of its rationale (the "Appeal Outcome"). The Appeal Outcome shall either:

- affirm the Finding,
- overturn and Reverse Finding, or
- send the Case Back to the Special Investigator with specific directions to reconsider the Finding.

The decision of the Vice President or designee as set forth in the Appeal Outcome shall be final. The Vice President shall forward a copy of the Appeal Outcome to the OCRSM via email to [\[civilrights@umd.edu\]\(mailto:civilrights@umd.edu\)](mailto:civilrights@umd.edu). The OCRSM will forward a copy of the Appeal Outcome to the parties and respective supervisor/unit head/department chair or dean/Director of Student Conduct as soon as possible.

VI. RECOMMENDATIONS FOR CORRECTIVE ACTION

At the conclusion of an investigation, the OCRSM may provide the appropriate Vice President, supervisor, and department chair/dean with a *Recommendation for Corrective Action* if there is a finding of a policy violation. The OCRSM may also make a referral for review and response to another University process and/or office as may be appropriate in cases where the conduct at issue may violate other University policies.

The final decision for determining and implementing any necessary corrective action shall remain the responsibility of the appropriate Vice President or designee. The Vice President or designee will notify the OCRSM within ten (10) Days of any corrective action that has been implemented.

The OCRSM is responsible for monitoring efforts to ensure that any ongoing violations of the Policy cease. In the event corrective action requires specific anti-discrimination training not readily available to the parties, the OCRSM will work with the supervisor and/or department/unit head to ensure training occurs as soon as feasible.

VII. DISCIPLINARY ACTION

A. Students

With respect to Student Respondents, the Director of the Office of Student Conduct (OSC) in accordance with the provisions of the Code of Student Conduct is responsible for imposing disciplinary action.

1. Discipline that impacts a student's status with the University includes: expulsion, suspension for a definite or indefinite period, and disciplinary probation for a definite or indefinite period. Expulsion, suspension, and disciplinary probation will be noted on a student's transcript. Disciplinary suspensions and expulsions are subject to the approval of the Vice President for Student Affairs.
2. Discipline that does not impact a student's status with the University includes but is not limited to: educational requirements, "no contact" orders, housing restrictions, community service, and disciplinary reprimand. Failure to comply with any of the sanctions listed above may result in further disciplinary action that could impact a student's disciplinary status with the University.

The OCRSM may provide other remedies, in consultation with the OSC, as appropriate. These remedies will identify reasonable long-term or permanent remedies to address the effects of the conduct on the Complainant, restore the Complainant's safety and wellbeing and maximize the Complainant's educational and employment opportunities. Remedies may also be identified to address the effects of the conduct on the University community.

Students may appeal discipline imposed as a result of a violation of this Policy in accordance with the Code of Student Conduct.

B. Staff

With respect to Staff Respondents, any disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Assistant Vice President & Chief Human Resources Officer, the Director of the OCRSM, and other relevant administrators, as needed. This may include the following:

- unit transfers;
- reassignment of duties;
- mandatory training;
- verbal reminders;
- written reminders/letters of reprimand;
- suspension without pay;
- suspension pending charges of removal; and
- termination.

Staff may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights.

C. Faculty

With respect to Faculty Respondents, disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Office of the Senior Vice President and Provost, the Director of the OCRSM, and other relevant administrators, as needed. This may include the following:

- reassignment of duties;
- mandatory training;
- verbal reminders;
- written reminders/letters of reprimand;
- suspension with or without pay; and
- termination.

Faculty may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights.

D. Records Retention

The OCRSM will maintain the records relating to the investigation. The respective unit responsible for issuing any discipline will maintain any disciplinary records in accordance with the University's records retention schedule. The respective unit shall also provide a copy of the disciplinary records to the OCRSM.

VIII. EXTERNAL GOVERNMENT AGENCIES THAT ADDRESS DISCRIMINATION COMPLAINTS

Filing an employment Discrimination complaint under this Policy or an alternative campus procedure does not preclude an employee from filing a complaint with the Maryland Commission on Civil Rights, the Equal Employment Opportunity Commission, or the Office for Civil Rights of the U.S. Department of Education.

Complainants who wish to file Discrimination complaints that are not connected with the official functions of the University or not falling within the scope of this Policy, will be referred to appropriate University, County, State, or Federal agencies by the OCRSM.

Equal Employment Opportunity Commission (EEOC)

GH Fallon Federal Building 31 Hopkins Plaza, Suite 1432

Baltimore, MD 21201

Phone: 1-800-669-4000

Fax: 443-992-7880

TTY: 1-800-669-6820

Website: <https://eeoc.gov/>

Maryland Commission on Civil Rights (MCCR)

William Donald Schaefer Tower

6 Saint Paul Street, Suite 900

Baltimore, MD 21202-1631

Phone: 410-767-8600

Fax: 410-333-1841

TTY: 410-333-1737

Website: <http://mccr.maryland.gov/>

E-mail: mccr@maryland.gov

U.S. Department of Education, Office for Civil Rights (OCR)

The Wanamaker Building

100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215-656-8541
Fax: 215-656-8605
TDD: 800-877-8339
Website: <https://www.ed.gov/about/offices/list/ocr/index.html>
E-mail: OCR.philadelphia@ed.gov

Office for Civil Rights U.S. Department of Education

~~Philadelphia Office (Regional Office for Maryland)~~

~~The Wanamaker Building~~

~~100 Penn Square East, Suite 515~~

~~Philadelphia, PA 19107-3323~~

~~Phone: 215-656-8541~~

~~FAX: 215-656-8605~~

~~TDD: 800-877-8339~~

~~Email: OCR.Philadelphia@ed.gov (<mailto:OCR.Philadelphia@ed.gov>)~~

~~Website: <http://www2.ed.gov/about/offices/list/ocr/index.html> (<http://www2.ed.gov/about/offices/list/ocr/index.html>)~~

Maryland Commission on Civil Rights

~~Phone: 410-767-8600~~

~~Website: <http://mccr.maryland.gov/> (<http://mccr.maryland.gov/>)~~

Equal Employment Opportunity Commission

~~Phone: 800-669-4000~~

~~TTY: 800-669-6820~~

~~Website: <https://egov.eeoc.gov/eas/> (<https://egov.eeoc.gov/eas/>)~~

It is important to note that in order to protect certain legal rights and remedies, Complainants must comply with certain time limits and deadlines. Affected persons should contact the relevant agencies listed above to verify time limits for filing. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.

¹ Complaints of ~~discrimination based on sex, gender identity or expression, and sexual orientation that do not involve misconduct of a sexual nature will be addressed under this Non-Discrimination Policy and Procedures (Non-Discrimination Policy). Complaints based on sexual misconduct will be~~ ~~misconduct~~ ~~addressed under~~ ~~covered by~~ the University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct (VI-1.60[A]) ~~(Sexual Misconduct Policy)~~, will be addressed under ~~Policy and Procedures VI-1.60(A)~~, as appropriate. When the Title IX Officer determines based on its initial assessment, or following a mandatory or permissive dismissal, that the alleged ~~sexual misconduct~~ ~~conduct~~ would not constitute a potential violation under ~~the Sexual Misconduct Policy~~ ~~Policy and Procedures VI-1.60(A)~~ if substantiated, the Title IX Officer may refer the report to ~~another University process, including~~ this Non-Discrimination Policy, as appropriate.

² The University's policy and procedures for requesting disability accommodations may be found in the University of Maryland Disability & Accessibility Policy and Procedures (VI-1.00[D]). Complaints of discrimination on the basis of disability may be made under this Non-Discrimination Policy.

³ An investigator in the OCRSM, for purposes of state employment regulations, is also considered to be the Fair Practices Officer.



Technical and Legal Updates to VI-1.60 (A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct

PRESENTED BY Kim Coles, Chair

REVIEW DATES SEC – May 17, 2024

VOTING METHOD In a single vote

RELEVANT POLICY/DOCUMENT [VI-1.60\(A\)- University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct](#)

NECESSARY APPROVALS Senate Executive Committee

ISSUE

In October 2023, Angela Nastase, Director, and Title IX Coordinator from the Office of Civil Rights and Sexual Misconduct submitted a proposal to the Senate Executive Committee (SEC) requesting that the policy VI-1.60 (A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct be reviewed for technical and legal changes. The changes to the policy allow the policy to be consistent with current federal and state regulations.

The SEC charged the Equity, Diversity, and Inclusion Committee with reviewing the proposal and revisions to the Sexual Harassment and Other Sexual Misconduct Policy and Procedures at its November 6, 2023.

RECOMMENDATIONS

On April 19, 2024 the U.S Department of Education issued final federal regulations regarding sex-based discrimination under Title IX. The Office of General Counsel (OGC) consulted that the regulations were going to require significant revisions to the policy being reviewed by the subcommittee. The final federal regulations require universities to implement the changes by August 1, 2024. OGC recommended that the proposal be paused to allow for an interim Sexual Harassment and Other Sexual Misconduct Policy and Procedure that encompasses the substantive changes to be developed. The recommendation was made to limit the number of policy drafts existing and avoid confusion for ongoing and new cases.

The Equity, Diversity, and Inclusion Committee deliberated the recommendation and recommends that:

- Due to the U.S Department of Education issuance of final federal regulations regarding sex-based discrimination under Title IX on April 19, 2024, the committee moves to submit its reports and recommendations to the Office of General Counsel, Office of Civil Rights & Sexual Misconduct, and the Office of the President to consider the committee's work in their development of the interim sexual misconduct policy.

COMMITTEE WORK

The Equity, Diversity, and Inclusion Committee established a subcommittee that was tasked with reviewing the charge from the SEC. The subcommittee reviewed the proposed technical and legal changes, as well as related policies, ensuring they were clear to the campus community and aligned with state and federal laws. It was discovered that the proposal revisions aimed to bring the University's policy and procedures into alignment with federal laws. Furthermore, the revisions aimed to clarify ambiguities within policy practices and update titles and addresses of policy resources. The subcommittee learned that the biggest change is the deletion of the timeline regarding the submission of impact statements in the Hearing process. It was also found that constraints imposed by state and federal law limited the subcommittee's scope of action. The subcommittee consulted with relevant university offices and committees and clarified the purpose behind the proposed changes.

The subcommittee work was presented to the full committee at a meeting on April 5, 2024, where it was approved.

ALTERNATIVES

The Senate could decide not to approve the recommendation.

RISKS

There are no risks to the University in adopting the recommendations.

FINANCIAL IMPLICATIONS

There are no financial implications in approving these recommendations.



Technical and Legal Updates to VI-1.60 (A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct

2023-2024 Committee

- Kim Coles (Chair)
Deneen Brown (Faculty)
Nolan Coble (Graduate Student)
Dannielle Glaros (Ex-Officio VP & Chief Administrative Officer Rep)
Donna Hammer (Exempt Staff)
Tara Holmes (Graduate Student)
Sun Young Lee (Faculty)
Yvette Lerma Jones (Ex-Officio VP Student Affairs Rep)
Cheng-Yu Li (Faculty)
Brian Medina (Ex-Officio VP Diversity & Inclusion Rep)

- Lauren Miles (Non-Exempt Staff)
Angela Nastase (Ex-Officio OCRSM Rep)
Thu Nguyen (Faculty)
Anna Petersen (Undergraduate Student)
Shannon Quarles (Non-Exempt Staff)
Tony Randall (Exempt Staff)
Michelle Rodriguez Cruz (Undergraduate Student)
Laura Rosenthal (Ex-Officio Provost's Rep)
Tunji Sawyer (Exempt Staff)
Shane Walsh (Faculty)

Date of Submission

May 2024

BACKGROUND

In October 2023, Angela Nastase, Director, and Title IX Coordinator from the Office of Civil Rights and Sexual Misconduct submitted a proposal to the Senate Executive Committee (SEC) requesting that the policy VI-1.60 (A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct be reviewed for technical and legal changes.

The University of Maryland (the University) Policy and Procedures on Sexual Harassment and Other Sexual Misconduct (VI-1.60[A]) outlines the University's approach to addressing all forms of sexual misconduct involving University faculty, staff, students, and third parties.

At its meeting on November 6, 2023, the Senate Executive Committee (SEC) voted to charge the "Technical and Legal Updates to VI-1.60 (A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct" proposal (Senate Document #23-24-16) to the Equity, Diversity, and Inclusion (EDI) Committee. (Appendix 1)

COMMITTEE WORK

The EDI Committee began working on the charge from the SEC at its November 7, 2023 meeting and received the formal charge elements by the committee's February 5, 2024 meeting. Due to other work assigned to the committee, it was decided that the committee be divided into subcommittees. The subcommittees met during full committee meetings as well as separately to maximize time. The subcommittee assigned to the charge reviewed the proposed technical and legal change and the related policies regarding Sexual Misconduct and Other Sexual Harassment at the Big Ten organizations.

During the deliberation, the subcommittee considered whether the proposed changes would allow for the policy to be clear to the campus community and if the changes were of a technical and legal nature. Because of the constraints imposed by state and federal law, the subcommittee was limited in the scope of action. The committee additionally consulted with the proposer to better understand the premise behind the proposed changes and the legal requirements. The subcommittee learned that the revisions were intended to align the University's policy and procedures with federal law. Additionally, it was learned that the revisions also reduced some ambiguities within the practices of the policy and updated titles and updated addresses of policy resources.

As directed in the charge from the SEC, the subcommittee consulted with a representative from the Office of the Vice President & Chief Administrative Officer designee, the Office of the Senior Vice President and Provost. Both consultations took place at the April 5, 2024 EDI committee meeting. The Chairs of the Faculty Affairs, Staff Affairs, and Student Affairs Committee were also consulted. All stated that the proposed changes were clear for the groups they individually represented and did not pose an issue to their respective departments. The feedback from the stakeholders aligned with the committee's discussions.

The subcommittee consulted with the Student Conduct Committee at the Student Conduct Committee meeting. Concerns arose regarding a proposed change that deleted wording involving the timeline of submitting impact statements during a compliant hearing. After consulting the proposer for additional information, it was clarified that impact statements would be still accepted in the hearing process and the timeline restriction was being removed which has caused confusion in previous hearings.

The subcommittee considered all the feedback and consultation discussions during its review of the Policy and consideration of the charge elements. The subcommittee reported its work to the full EDI committee, which voted to approve the proposed updates at the committee's April 5, 2024 meeting.

RECOMMENDATIONS

On April 19, 2024 the U.S Department of Education issued final federal regulations regarding sex-based discrimination under Title IX. The Office of General Counsel (OGC) consulted that the regulations were going to require significant revisions to the policy being reviewed by the subcommittee. The final federal regulations are requiring universities to implement the changes by August 1, 2024. OGC recommended that the proposal be paused to allow for an interim Sexual Harassment and Other Sexual Misconduct Policy and Procedure that encompasses the substantive changes to be developed. The recommendation was made to limit the number of policy drafts existing and avoid confusion for ongoing and new cases.

The Equity, Diversity, and Inclusion Committee deliberated the recommendation and recommends that:

- Due to the U.S Department of Education issuance of final federal regulations regarding sex-based discrimination under Title IX on April 19, 2024, the committee moves to submit its reports and recommendations to the Office of General Counsel, Office of Civil Rights & Sexual Misconduct, and the Office of the President to consider the committee's work in their development of the interim sexual misconduct policy.

APPENDICES

Appendix 1 – Charge from the Senate Executive Committee

Appendix 2 – Proposed Redlined version of changes to the Policy

Appendix 3 – Redlined version of changes to the Policy



Technical and Legal Updates to VI-1.60(A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct (Senate Document #23-24-16)

Equity, Diversity, & Inclusion Committee | Chair: Kim Coles

The Senate Executive Committee (SEC) and Senate Chair Jarzynski request that the Equity, Diversity, & Inclusion Committee review the University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct (VI-1.60[A]) for technical and legal revisions.

Specifically, the Equity, Diversity, & Inclusion Committee should:

1. Review the Proposal entitled Technical and Legal Updates to VI-1.60(A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct.
2. Review the University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct ([VI-1.60\[A\]](#)).
3. Review the technical and legal updates as provided in the proposal.
4. Review similar policies and procedures on non-discrimination at Big 10 and other peer institutions.
5. Consult with the Office of Civil Rights and Sexual Misconduct.
6. Consult with the Faculty Affairs Committee.
7. Consult with the Staff Affairs Committee.
8. Consult with the Student Affairs Committee.
9. Consult with the Student Conduct Committee
10. Consult with the Vice President and Chief Administrative Officer (VP&CAO) or designee.
11. Consult with the Office of the Senior Vice President and Provost or designee.
12. Consider the clarity of the revisions for all members of the campus community.
13. Consider whether the updates to the policy and procedures help streamline and expedite the current resolution processes.
14. Consult with a representative from the Office of General Counsel on any proposed changes to the University's policy.
15. If appropriate, recommend whether the policy should be revised and if so, provide suggested revisions.

We ask that you submit a report to the University Senate Office no later than **May 3, 2024**. If you have questions or need assistance, please contact the University Senate Office, senate-admin@umd.edu.



VI-1.60(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES ON SEXUAL HARASSMENT AND OTHER SEXUAL MISCONDUCT

(Approved on an interim basis October 13, 2014; Amended May 4, 2015; Amended October 1, 2015; Amended March 21, 2016; Amended May 13, 2016; Amended and approved on an interim basis June 24, 2019; Amended and approved by the President on December 12, 2019; Amended and approved on an interim basis effective August 14, 2020; Amended May 10, 2021; Amended and approved on an interim basis by the President August 23, 2021)

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I. Introduction

The mission of the University of Maryland (“the University”) is to cultivate a transformative educational, scholarly, and professional experience for all members of its campus community while safeguarding their personal health and well-being. The University is committed to creating a collaborative environment open to the free exchange of ideas, where scholarship, creativity, innovation, and entrepreneurship can flourish and where individuals can achieve their full potential. The University affirms

that commitment by striving to maintain an academic and work environment that empowers all to work, study, innovate, and perform without fear of sexual misconduct, sexual violence, and power-based violence. Such misconduct and violence diminish individual dignity, are contrary to the values of the University, and are a barrier to the fulfillment of the University's mission. It is incumbent upon every member of the University community to foster an environment free from sexual misconduct by upholding the University's core mission and values, and by working together to avoid harmful situations through a shared understanding of how to prevent sexual misconduct and how to address it if it occurs.

II. Purpose

Prohibited Conduct undermines the character and purpose of the University and the University will take appropriate prompt and effective action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The purpose of this Policy and Procedures is to describe the Prohibited Conduct; describe how to report or file a complaint; provide resources for counseling, safety, emotional support, and advocacy; articulate the procedures for investigating and resolving complaints; and articulate awareness and educational training objectives.

The University acknowledges its commitment to a working and learning environment free from sexual misconduct through training, education, prevention programs, and policies and procedures that promote prompt reporting and response, provide support to persons alleged to be victimized, prohibit retaliation, and implement timely, fair, and impartial investigations and resolutions that ensure due process and remedy Policy violations. Sexual Harassment, Other Sexual Misconduct, and Retaliation are Prohibited Conduct and will not be tolerated in any form. This Prohibited Conduct corrupts the integrity of the educational process and work environment and violates the core mission and values of the University, and the University will address such conduct in accordance with this Policy.

Nothing in this Policy and Procedures should be interpreted to abridge academic freedom or principles of free speech. The University will not condone behavior that violates the freedom of speech, choice, assembly, or movement of other individuals or organizations. In short, responsible dissent carries with it sensitivity for the civil rights of others.

III. Scope and Applicability

This Policy prohibits Sexual Harassment, Other Sexual Misconduct, and Retaliation. This Prohibited Conduct may be a form of sex discrimination prohibited by federal and Maryland State discrimination laws, including Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act of 1964 (Title VII). This Policy also is in compliance with the University's obligations under Maryland law and University System of Maryland Policy VI-1.60.

This Policy addresses the University's obligations under Title IX. Title IX provides, "No

person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” The University, under this Policy, goes beyond Title IX to include in its Prohibited Conduct other forms of sexual misconduct that are antithetical to the University’s core mission and values. This Policy also addresses allegations of Other Sexual Misconduct, which includes Sexual Harassment that occurred against a person outside of the United States or not within an Education Program or Activity; Sexual Coercion; Sexual Exploitation; Sexual Intimidation; Attempted Sexual Assault; and Other Sex-Based Offenses. Retaliation is also addressed.

Federal regulations implementing Title IX require that the University follow certain procedures when the University obtains Actual Knowledge of Sexual Harassment in its Education Program or Activity against a person in the United States. The University of Maryland fulfills those requirements through these Procedures. This Policy and Procedures govern all forms of Prohibited Conduct that is alleged to be in violation of Title IX and this Policy.

This Policy applies to all members of the University community, including students, faculty, and staff. It also applies to contractors and other third parties who are engaged in any University Education Program or Activity, or who are otherwise interacting with the University, including, but not limited to volunteers, vendors, guests, and visitors. All University members are prohibited from engaging in, or assisting or abetting another’s engagement in Sexual Harassment, Other Sexual Misconduct, or Retaliation.

This Policy applies to all reports of Prohibited Conduct occurring on or after the effective date of this Policy. Where the date of the alleged Prohibited Conduct precedes the effective date of this Policy, the definitions of misconduct in existence at the time of the alleged incident(s) will be used. The Procedures under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the alleged incident(s) occurred.

To the extent any provision of this Policy conflicts with any other University policy, this Policy controls. Prohibited Conduct under this Policy may also be sex discrimination in violation of *VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures*. However, this Policy and Procedures supersedes *VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures* with respect to allegations of Prohibited Conduct addressed by this Policy. The University will respond to reports and complaints of Prohibited Conduct in accordance with this Policy and Procedures.

IV. Jurisdiction

- A. This Policy applies to reported acts of Prohibited Conduct committed by or against students, faculty, staff, and third parties when:
 - 1. Conduct occurs on University premises, in any University facility, or on property owned or controlled by the University;

2. Conduct occurs in the context of a University Education Program or Activity, including, but not limited to, University-sponsored academic, athletic, extracurricular, study abroad, research, online or internship programs or activities;
 3. Conduct occurs outside the context of a University Education Program or Activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third parties while on University premises or other property owned or controlled by the University or in any University Education Program or Activity; or
 4. Conduct otherwise threatens the health and/or safety of University members.
- B. The University does not have jurisdiction to investigate reported incidents involving members of the University community that occurred prior to the individual being enrolled at or employed by the University when the incident did not occur on campus or otherwise in connection with a University Education Program or Activity.

V. Reporting

A. General

All persons are encouraged to report Prohibited Conduct promptly, in order to ensure that all Parties affected by the alleged Prohibited Conduct are provided with support and connected with available resources. Prompt reporting is also critical for the preservation of physical and other evidence, which may be important in the University's administrative process and/or to prove criminal conduct or to obtain a civil or criminal order of protection. In addition to reporting Prohibited Conduct, individuals may also speak with a confidential resource at any time, as detailed in Section X of this Policy.

B. Reporting to the Office of Civil Rights & Sexual Misconduct

Any person may report Prohibited Conduct at any time by contacting the Title IX Coordinator/Officer (Title IX Officer) or to the Office of Civil Rights & Sexual Misconduct (OCRSM), listed below, regardless of whether the reporting person is the Complainant.

~~Grace C. Karmiol~~ **Angela Nastase, JDEsq., OCRSM Director and Title IX Coordinator/Officer**

University of Maryland
Office of Civil Rights & Sexual Misconduct (OCRSM)
3101 Susquehanna Hall
4200 Lehigh Road
College Park, MD 20742-5025

E-mail: anastase@umd.edu | ekarmiolo@umd.edu | titleixcoordinator@umd.edu

Telephone: 301-405-1142

Website: <http://www.ocrsm.umd.edu/>

An online reporting form is accessible on the OCRSM website 24 hours/7 days a week unless there is scheduled maintenance.

Prompt reporting to OCRSM maximizes the University's ability to obtain evidence, identify potential witnesses, and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting Prohibited Conduct, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing the University's ability to respond and take appropriate action.

The Title IX Officer is responsible for coordinating the University's efforts to comply with Title IX and this Policy. The Title IX Officer leads, coordinates, and oversees OCRSM, including OCRSM's efforts regarding compliance training, prevention programming, and educational programs. The Title IX Officer is available to meet with any student, employee, or third party to answer any questions about this Policy.

C. Reporting to a Responsible University Employee

Any person may also report Prohibited Conduct to a Responsible University Employee (RUE) including but not limited to the University of Maryland Police Department (UMPD). A Responsible University Employee, as defined in Section VII, must promptly notify the Title IX Officer of any report of Prohibited Conduct brought to their attention¹. The Title IX Officer works collaboratively with the reporting party or entity, making every effort to operate with discretion and maintain the privacy of the individuals involved. No employee (other than UMPD) is authorized to investigate or resolve reports of Prohibited Conduct without the involvement of the Title IX Officer.

D. Reporting to the Police

Prohibited Conduct, particularly Sexual Assault, may be a crime. The University will assist Complainants who wish to report Prohibited Conduct to law enforcement authorities, including UMPD 24 hours a day/7 days a week. Representatives of the OCRSM, the Office of Student Conduct (OSC), the Department of Resident Life's Office of Rights and Responsibilities (R&R), and Campus Advocates Respond and Educate (CARE) to Stop Violence Office in the University Health Center are available to assist students with reporting to UMPD.

UMPD are Responsible University Employees under this Policy and are required to notify the Title IX Officer of any report of Prohibited Conduct. UMPD will also assist

¹ University employees may have additional reporting obligations under VI-1.50(A) University of Maryland Policy on the Reporting of Suspected Child Abuse and Neglect.

Complainants in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to UMPD, please call 301-405-3333 or 911. Callers may also dial 301-405-3555 or via mobile phone #3333. Regardless of where the incident occurred **Call 911** in an emergency.

Because the standards for a violation of criminal law are different from the standards for a violation of this Policy, criminal investigations and proceedings are not determinative of whether a violation of this Policy has occurred. In other words, conduct may violate this Policy even if law enforcement agencies or local prosecutors decline to prosecute. Complaints of Sexual Harassment and Other Sexual Misconduct and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off campus.

E. Clery Act Timely Warnings

If a report of Prohibited Conduct discloses a serious and ongoing threat to the University community, UMPD may issue a timely warning of the conduct in compliance with the Clery Act in the interest of the health and safety of the University community. This notice will not contain any personally identifying information related to the victim.

VI. Amnesty for Students Who Report Prohibited Conduct

A. The University recognizes that a student who is under the influence of alcohol and/or drugs when an incident of Prohibited Conduct occurs may be reluctant to report the Prohibited Conduct out of concern that the student may face disciplinary actions for engaging in prohibited alcohol or drug use. As such, a student who reports Prohibited Conduct to the University or law enforcement, or who participates in an investigation either as a Complainant or witness, will not face disciplinary action for violating University drug and alcohol policies.

B. This Amnesty provision applies only when the University determines that:

1. The drug/alcohol violation occurred during or near the time of the reported Prohibited Conduct;
2. The student acted in good faith in reporting or participating as a witness; and
3. The violation was not likely to place the health or safety of another individual at risk.

VII. Definitions

For purposes of this Policy and Procedures, the following definitions apply:

A. **“Actual Knowledge”** means notice of Sexual Harassment or allegations of Sexual

Harassment to the Title IX Officer or any University official who has authority to institute corrective measures on behalf of the University.

- B. **“Advisor”** means a person chosen by a Party to provide advice and consultation to that Party, in accordance with this Policy and Procedures. An Advisor may be an attorney or another individual. A Party’s Advisor also conducts cross-examination on behalf of that Party at a Hearing, if applicable, in accordance with this Policy and Procedures. An Advisor shall not be an active participant or speak on behalf of a Party except for the purpose of providing cross-examination at a Hearing. If a Party does not have an Advisor, the University will provide without fee or charge to that Party, an Advisor of the University’s choice, to conduct cross-examination on behalf of that Party; an Advisor appointed by the University acts in a confidential capacity on behalf of the Party and is not otherwise involved in the proceedings.
- C. **“Appellate Hearing Officer”** means an individual designated to review decisions concerning responsibility and sanctions, based on the Respondent’s status as a student, staff member, faculty member, or third party. Appellate Hearing Officers shall have had no previous involvement with the substance of the Formal Complaint.
- D. **“Complainant”** means the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.
- E. **“Consent”** means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give Consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that the person has Consent from the other party, and that the other party is capable of providing Consent.
 - 1. Lack of protest or resistance is not Consent. Nor may silence, in and of itself, be interpreted as Consent.
 - 2. Previous relationships, including past sexual relationships, do not imply Consent to future sexual acts.
 - 3. Consent to one form of sexual activity cannot automatically imply Consent to other forms of sexual activity.
 - 4. Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is Consent or whether prior Consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
 - 5. Consent cannot be obtained by use of physical force or Sexual Coercion.

6. An individual who is Incapacitated is unable to give Consent.
- F. **“Day”** means a business weekday when the University is not closed.
- G. **“Education Program or Activity”** means all of the University’s operations (including but not limited to employment); locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs; and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- H. **“Formal Complaint”** means a Document filed by a Complainant or signed by the Title IX Officer alleging Prohibited Conduct against a Respondent and requesting that the University proceed with the resolution process. A Formal Complaint may be filed with the Title IX Officer in person, by mail, by e-mail, or any additional method designated by the University in accordance with these Procedures.
1. **“Document filed by a Complainant”** means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Officer signs a Formal Complaint, the Title IX Officer is not a Complainant or otherwise a Party.
- I. **“Hearing”** means a live, formal proceeding attended by the Parties in person or by video conference in which evidence is presented, witnesses are heard, and cross-examination occurs, prior to the Hearing Officer’s decision concerning responsibility and Sanctions, if applicable.
- J. **“Hearing Officer”** means an individual designated to preside over the Hearing and has decision-making and sanctioning authority within the adjudication process.
- K. **“Incapacitated”** means an individual’s decision-making ability is impaired such that the individual lacks the capacity to understand the “who, what, where, why, or how” of their sexual interaction. Incapacitation may result from sleep, unconsciousness, intermittent consciousness, physical restraint, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a temporary or permanent mental or developmental disability that impairs the ability to Consent to sexual contact. Alcohol or drug use is one of the primary causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or drunkenness. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

1. Making decisions about the potential consequences of sexual contact;
 2. Appraising the nature of one's own conduct;
 3. Communicating Consent to sexual contact; or
 4. Communicating unwillingness to engage in sexual contact.
- L. **“Informal Resolution”** means a broad range of conflict resolution strategies, including, but not limited to, mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions and remedies.
- M. **“Investigator”** means a professionally trained University staff member or third-party contractor designated to conduct an impartial, fair, and unbiased investigation into an alleged violation of this Policy.
- N. **“No Contact Order”** means an official directive that serves as notice to an individual that the individual must not have verbal, electronic, written, or third-party communications with another individual.
- O. **“Party”** means the Complainant or the Respondent (collectively, the “Parties”).
- P. **“Preponderance of the Evidence”** means that it is more likely than not that a Policy violation has occurred.
- Q. **“Remedies”** means actions designed to restore or preserve the Complainant's equal access to the University's Education Program or Activity. Remedies are similar to Supportive Measures but may be punitive and burden the Respondent.
- R. **“Respondent”** means the individual alleged to have engaged in Prohibited Conduct under this Policy.
- S. **“Responsible University Employee”** means all University administrators, supervisors, faculty members, graduate assistants, UMPD, athletic coaches, athletic trainers, resident assistants, and first responders, who are not confidential resources. Responsible University Employee is a term of art for purposes of this Policy only and for no other purposes.
- T. **“Sanctions”** means disciplinary and other consequences imposed on a Respondent who is found to have violated this Policy.
- U. **“Support Person”** means a person chosen by the Complainant or Respondent to provide emotional, logistical, or other kinds of assistance. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the Party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant or a witness, and the Parties must

speaking for themselves.

- V. **“Supportive Measures”** mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent to restore or preserve equal access to Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or to deter Prohibited Conduct under this Policy.

VIII. Prohibited Conduct

This Policy prohibits Sexual Harassment, Other Sexual Misconduct, and Retaliation as set forth below. Prohibited Conduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Prohibited Conduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation, or gender expression.

- A. **Sexual Harassment**² means conduct on the basis of sex that satisfies one or more of the following:
1. **Quid Pro Quo:** An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.
 2. **Hostile Environment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s Education Program or Activity.
 3. **Sexual Assault:** An offense classified as a sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are any sexual acts directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent (Non-Consensual Sexual Penetration or Fondling); also, unlawful sexual intercourse (Incest or Statutory Rape).
 - a. **Non-Consensual Sexual Penetration:** Penetration, no matter how slight, of the genital or anal opening of the body of another person with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.³
 - b. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age

² See 34 C.F.R. § 106.30 (defining “Sexual Harassment” under Title IX).

³ This definition encompasses the FBI uniform crime reporting system offenses required by Title IX.

or because of their temporary or permanent mental or physical incapacity.

- c. **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.⁴
4. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the following factors:
- a. The length of the relationship;
 - b. The type of relationship; and
 - c. The frequency of interaction between the persons involved in the relationship.
5. **Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Maryland, or by any other person against an adult or youth Complainant protected from that person's acts under the domestic or family violence laws of Maryland.
6. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- a. Fear for their own safety or the safety of others; or
 - b. Suffer substantial emotional distress.

B. **Other Sexual Misconduct** means the following conduct:

~~1. **Sexual Harassment** that occurred against a person outside of the United States or not within an Education Program or Activity, or otherwise does not fall under Title IX.~~

2.1 **Sexual Coercion:** The use of unreasonable pressure in an effort to compel another individual to initiate or continue sexual activity against the individual's will. A person's words or conduct are sufficient to constitute Sexual Coercion if they wrongfully impair another individual's freedom of will and ability to choose

⁴ The statutory age of consent in Maryland is 16. See Md. Code Ann., Crim. Law §§ 3-301 to -307.

Commented [A1]: See also comment on pg. 30. This deletion streamlines and simplifies matters. This definition is not needed, duplicative, and overly complicated. The original intent behind this definition was that it would again identify whether conduct falls under the Title IX regulations' 5 categories of Sexual Harassment (they are above under subsection A), but is nevertheless not under Title IX due to jurisdictional criteria, after the Notice of Formal Complaint/Designation is sent out. This definition makes the reader (and OCRSM) then refer to Section A for the relevant conduct definition. However, whether alleged conduct is Title IX-based or not is clearly stated and explained in the Notice of Formal Complaint/Designation, when conduct is designated as Title IX Prohibited Conduct or Non-Title IX Prohibited Conduct.

whether or not to engage in sexual activity. Sexual Coercion includes but is not limited to intimidation, manipulation, express or implied threats of emotional or physical harm, and/or blackmail. Examples of Sexual Coercion include but are not limited to causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

~~3.2~~ **Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

~~4.3~~ **Sexual Intimidation:** Threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.

~~5.4~~ **Attempted Sexual Assault:** An attempt to commit Sexual Assault.

~~6.5~~ **Other Sex-Based Offenses:** Unwelcome sexual advances, unwelcome requests for sexual favors, or other ~~conduct~~ ~~behavior~~ of a sexual ~~nature~~ or ~~gender~~-based on ~~sex-nature~~ where:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, evaluation of academic work, or participation in a University-sponsored educational program or activity;
- b. Submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; ~~or~~
- ~~c.~~ Such conduct has the effect of unreasonably interfering with an individual's academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment; ~~or~~

~~e.d.~~ Based on the totality of the circumstances, the conduct, which need not be severe or pervasive, unreasonably creates a working environment for the worker that a reasonable person would perceive to be abusive or hostile.

C. **Retaliation** means intimidating, threatening, coercing, or discriminating against, or otherwise taking an adverse action against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to Prohibited Conduct, or because an individual has made a report, filed a complaint, testified, assisted, participated or refused to participate in any manner in an investigation,

Commented [A2]: This revision is recommended for legal compliance and clarity.

Commented [A3]: Md. Code Ann, State Gov't Art. § 20-601 (eff. Oct. 2022) expanded the definition of sexual harassment in the workplace context. This addition would cover § 20-601(k)(3). The above subsections 5.a and 5.b already cover § 20-601(k)(1)-(2).

The Non-Discrimination Policy was amended last year to incorporate this definition as a short-term fix (a broader definition of harassment based on other protected classes had to be added last year as well). Moving this piece to this Policy ensures that all complaints of sexual harassment and other sexual misconduct is addressed pursuant to the same procedures and avoids confusion.

proceeding, or hearing related to Prohibited Conduct. Adverse actions include but are not limited to impeding an individual's academic advancement; terminating, refusing to hire, or refusing to promote an individual; or transferring or assigning an individual to a lesser position in terms of wages, hours, job classification, or job security. Retaliation includes retaliatory harassment. Adverse actions, including charges against an individual for violations of other University policies that do not involve sex discrimination or Prohibited Conduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of Prohibited Conduct, for the purpose of interfering with any right or privilege secured by law, constitutes Retaliation. However, charging an individual with a violation of other University policies for making a materially false statement in bad faith in the course of a proceeding does not constitute Retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith. The exercise of rights protected under the First Amendment does not constitute Retaliation. The University will keep confidential, to the extent permitted by the Family Educational Rights and Privacy Act (FERPA), the identity of any individual who has made a report of Prohibited Conduct.

IX. Sanctions

- A. As further explained in the Procedures, Sanctions for Respondents determined to have violated this Policy include, but are not limited to, the following:
1. Students. Students found in violation of this Policy are subject to Sanctions such as dismissal from the University (suspension or expulsion), removal from University housing, disciplinary probation, and other sanctions such as community service and mandatory and continuing participation in training on Prohibited Conduct and education programming, depending on the circumstances and nature of the violation.
 2. Employees. Employees found in violation of this Policy are subject to Sanctions ranging from a written reprimand up to and including separation from employment, depending on the circumstances and nature of the violation.

X. Confidential Resources

Confidential resources on and off campus assist Parties in navigating potential advocacy, therapy, counseling, and emotional support services. If a person desires to keep an incident of Prohibited Conduct confidential, the person should speak with confidential resources.

Disclosures or reports made to individuals or entities other than confidential resources may not be confidential. For instance, should a member of the University community discuss an incident of Prohibited Conduct with a University administrator, supervisor, faculty member, graduate assistant, UMPD, athletic coach, athletic trainer, resident

assistant, or first responder who is not a confidential resource, those persons are deemed Responsible University Employees and, as such, are obligated pursuant to this Policy to report the Prohibited Conduct to the Title IX Officer.

Unless there is a lawful basis for disclosure, such as reported child abuse or an imminent risk to health or safety, confidentiality applies when persons seek services from the following resources:

A. University Confidential Resources

Campus Advocates Respond and Educate (CARE) to Stop Violence

University Health Center
3983 Campus Drive
College Park, MD 20742
Telephone: 301-314-2222
24/7 Crisis Line (call) 301-741-3442
Website: www.health.umd.edu/care
Email: uhc-care@umd.edu

This service is a free and confidential resource that provides support, assistance, and advocacy to any member of the University community impacted by Prohibited Conduct. Its mission is to respond to incidents of Sexual Harassment and Other Sexual Misconduct.

Faculty Staff Assistance Program (FSAP)

University Health Center
3983 Campus Drive
College Park, MD 20742
Telephone: 301-314-8170 or 301-314-8099
Website: health.umd.edu/fsap
Email: ~~Tom Ruggieri~~ [Tonya Phillips tphilli6@umd.edu](mailto:Tonya.Phillips@umd.edu) ~~ruggieri@umd.edu~~ or [Tania DeBarros tdebarro@umd.edu](mailto:Tania.DeBarros@umd.edu) ~~Joan Bellsey jbellsey@umd.edu~~

Commented [A4]: Updated contact information

This program is a confidential assessment, referral, and counseling service staffed by trained mental health professionals. FSAP is available to all University employees and their family members at no charge. Faculty and staff may consult with a counselor for many different reasons, including for issues relating to Prohibited Conduct.

University Counseling Center

1101 Shoemaker Building
4281 Chapel Lane
College Park, MD 20742
Telephone: 301-314-7651
After Hours Crisis Support: 301-314-7651
Website: www.counseling.umd.edu

The University Counseling Center provides comprehensive psychological and counseling services to meet the mental health and developmental needs of students and others in the University community. Staffed by counseling and clinical psychologists, the Counseling Center offers a variety of services to help students, faculty, staff, and the community deal with issues concerning them.

University Health Center (UHC)

Medical & Behavioral Health
3983 Campus Drive
College Park, MD 20742
Telephone: 301-314-8106
Website: <https://health.umd.edu/behavioral-health>

The Mental Health Service is staffed by psychiatrists and licensed clinical social workers and offers confidential services including short-term psychotherapy, medication evaluations, crisis intervention, and group psychotherapy.

Campus Chaplains

Telephone: 301-405-8450 or 301-314-9866
Website: http://thestamp.umd.edu/memorial_chapel/chaplains

The Campus Chaplains represent faith communities and work collectively to serve the spiritual needs of all members of the University community. Contact information for Chaplains is listed on the website referenced above.

B. Confidential Resources Off-Campus include, but are not limited to:

Domestic Violence and Sexual Assault Center at UM Prince George's HospitalCapital Region Medical Center
901 Harry S. Truman Drive North
Largo, MD 207743001 Hospital Drive, Cheverly, MD 20785
Help Hotline: ~~240-677-2337~~301-618-3154 – 24-hour Hotline or 24 hours/7 days a week
Website: <https://www.umms.org/capital/health-services/domestic-violence-sexual-assault> ~~https://www.umms.org/capital/health-services/domestic-violence-sexual-assault~~

Commented [A5]: Updated name/contact information

Persons who experience sexual assault can access a Sexual Assault Forensic Exam (SAFE) within 72 hours of an assault. Each Maryland county has a hospital that provides SAFE exams. A SAFE exam is available at UM **Prince George's HospitalCapital Region Medical Center**. To find a SAFE provider in other counties call 1-800-656-4653. SAFE exams and attention to medical needs are available without having to reveal a person's identity to the police.

Maryland Coalition Against Sexual Assault (MCASA)

Statewide Sexual Assault Information and Referral Helpline: 1-800-983-RAPE

(4673)

Website: <https://mcasa.org/>

MCASA is a statewide coalition of 17 rape crisis and recovery centers that serve all Maryland jurisdictions. MCASA works to help prevent Sexual Assault, advocate for accessible, compassionate care for survivors of Sexual Violence, and works to hold offenders accountable.

Maryland Network Against Domestic Violence (MNADV)

4601 Presidents Drive, Suite 300

Lanham, MD 20706

Statewide Helpline: 1-800-MD-HELPS (43577) (Monday-Friday, 9:00 a.m. – 5:00 p.m.)

MNADV Office: 301-429-3601

Email: info@mnadv.org

Website: <https://mnadv.org/>

The Maryland Network Against Domestic Violence (MNADV or Network) is the state Domestic Violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence. The Network accomplishes this goal by providing education, training resources, and advocacy to advance victim safety and abuser accountability.

RAINN National Sexual Assault Crisis Hotline

Help Hotline: 800-656-HOPE (4673) – 24-hour Hotline or 24 hours/7 days a week

Website: <https://www.rainn.org/>

RAINN (Rape, Abuse & Incest National Network) is the nation’s largest anti-sexual violence organization.

XI. Co-Occurring Criminal Action

Proceeding with a University resolution of Prohibited Conduct under this Policy and Procedures is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a report or Formal Complaint of Prohibited Conduct under this Policy. The University is required to conduct an investigation in a timely manner, which means, in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing Supportive Measures, and taking appropriate action.

However, at the request of law enforcement, the Title IX Officer may defer its fact gathering until the initial stages of a criminal investigation are complete. If such a request is made by UMPD, then UMPD will submit the request in writing and the Complainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by UMPD, Prince George’s County Police, or the local prosecutor’s office, the Title IX Officer will work collaboratively and supportively with

each respective agency within the parameters outlined above. The Title IX Officer will communicate any necessary delays in the University's investigative process to both parties in the event of a deferral.

XII. Rights of Parties

Parties will be treated with dignity, respect, and sensitivity by University officials during all phases of the process. The process for investigating and resolving reports and complaints must be free from conflict of interest or bias. Any individual designated by the University as a Title IX Officer, Investigator, Hearing Officer, Appellate Hearing Officer, or Informal Resolution facilitator must not have a conflict of interest or bias for or against Complainants or Respondents, generally, or for or against an individual Complainant or Respondent. To raise any concern involving bias or conflict of interest by the Title IX Officer, the Parties should contact the Vice President for Diversity and Inclusion, Georgina Dodge, Ph.D., via email at gdodge1@umd.edu upon discovery of the bias or conflict of interest. Concerns of bias or a potential conflict of interest by any other individual involved in the resolution process should be raised with the Title IX Officer upon discovery. The accompanying Procedures provide further guidance on concerns related to conflicts of interest and bias.

- A. The accompanying Procedures are designed to allow for a fair and impartial investigation, as well as prompt and equitable proceedings and resolutions that provide an opportunity for Parties to be heard.
- B. Parties will be given timely written notice of:
 1. The reported violation, including the date, time and location, if known, of the alleged violation, and the range of potential Sanctions associated with the alleged violation;
 2. Their rights and responsibilities under this Policy and information regarding other civil and criminal options;
 3. The date, time, location, participants, and purpose of each Hearing, meeting, or interview that the Party is invited or expected to attend, with sufficient time for the Party to prepare to participate;
 4. The final determination made by the Hearing Officer regarding whether a Policy violation occurred and the basis for the determination;
 5. Any Sanction imposed, as required by law; and
 6. The rights to appeal and a description of the appeal process.
- C. Parties will be entitled to participate in the investigation and adjudication of the Formal Complaint in accordance with the Procedures. Parties will be provided with:

1. Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the Hearing Officer, with personally identifiable or other information redacted as required by applicable law;
2. An opportunity to be heard through the process;
3. An opportunity to offer testimony at a Hearing;
4. An opportunity to submit evidence, witness lists, and suggest specific questions to be posed to the other Party during the investigation, or to the other Party at a Hearing through the Party's Advisor;
5. An opportunity to review testimony electronically or in a way in which the Parties are not required to be in the physical presence of one another;
6. An opportunity to review and provide written responses to draft and final investigation reports;
7. An opportunity to participate at a Hearing without being required to be in the physical presence of the other Party;
8. An opportunity to appeal a determination and/or Sanction; and
9. Notice, presented in an appropriate and sensitive format, before the start of the resolution process, of:
 - a. The Party's right to the assistance of an Advisor, including an attorney or advocate;
 - b. The legal service organizations and referral services available to the Party; and
 - c. The Party's right to have a Support Person of the Party's choice at any Hearing, meeting, or interview.

XIII. False Statements

Knowingly making false statements or knowingly submitting false information under this Policy and Procedures is prohibited.

XIV. Legal Representation Fund for Title IX Proceedings (Students Only)

Student Complainants and Respondents may elect to retain an attorney to serve as their Advisor, though assistance by an attorney is not required. The Maryland Higher

Education Commission (MHEC) has developed resources to assist current or former students in retaining an attorney to serve as an Advisor at no or low cost to the student. MHEC provides a list of licensed attorneys who have indicated that they may represent students in Title IX proceedings on a pro bono basis or for reduced legal fees. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX Proceedings, subject to the availability of funding. More information is available on MHEC's website.

XV. Emergency Removals

A. An emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which might arise out of reported Prohibited Conduct. The University may remove a Respondent from a University Education Program or Activity on an emergency basis when the University:

1. Undertakes an individualized safety and risk analysis;
2. Concludes that ~~there is~~ an immediate threat to the physical health or safety of any student or other individual arising from the alleged Prohibited Conduct justifies removal; and
3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

B. Nothing herein prohibits the University from implementing Supportive Measures in accordance with this Policy and Procedures.

C. Student Respondents

A student Respondent will be offered an opportunity to meet with the Director of Student Conduct or the Title IX Officer or designee to review the reliability of the information and challenge the decision within five (5) Days from the effective date of the emergency removal.

The University may impose an interim disciplinary suspension on a student Respondent in accordance with the *Code of Student Conduct* for reasons not arising from the alleged Prohibited Conduct.

D. Other Respondents

Other Respondents will be offered an opportunity to meet with the Title IX Officer or designee to review the reliability of the information and challenge the decision within five (5) Days from the effective date of the emergency removal.

For staff and faculty Respondents, the University in consultation with the Title IX Officer, UMPD, an employee's supervisor and applicable campus or departmental

Commented [A6]: This revision is recommended for legal compliance (more closely tracks the Title IX regulations).

Human Resource office may implement emergency removals from the University's Education Program or Activity, such as changing a Respondent's work responsibilities or work location or placing the Respondent on leave during the resolution process, following the process described above. The University also retains the authority to implement Supportive Measures as appropriate.

XVI. Consensual Relationships and Professional Conduct

Sexual relationships that occur in the context of educational or employment supervision and evaluation present potential conflicts of interest. Relationships in which one party maintains a supervisory or evaluative responsibility over the other also reflect an imbalance of power, leading to doubt as to whether such relationships are truly consensual.

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom the person has supervisory and/or evaluative responsibilities *must inform their supervisor(s)* of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. ~~While no relationships are expressly prohibited by this Policy,~~ Failure to self-report such relationships in a timely manner, as required by this Policy, may result in disciplinary action. Such relationships may also be prohibited by or otherwise subject to II-3.10(D) University of Maryland Policy on Consensual Relationships Between Faculty and Students.

Commented [A7]: Revision suggested to reference Policy II-3.10(D) here and also clarify that some consensual relationships are in fact prohibited by II-3.10(D).

XVII. Training

A. Prevention and Awareness Education

The University will develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Prohibited Conduct. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Harassment, definitions of consent and Prohibited Conduct, the University's Procedures, bystander intervention, risk reduction, and the consequences of engaging in Prohibited Conduct. These educational initiatives shall be for all incoming students and new employees. The University will also develop ongoing prevention and awareness campaigns for all students and employees addressing, at a minimum, the same information. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

B. Training for Personnel Involved in Response and Resolution

All persons involved in responding to or resolving Prohibited Conduct reports will participate in training in handling complaints of Prohibited Conduct under this Policy. The University will make these training materials publicly available on its website.

The University will ensure that Title IX Officers, Investigators, Hearing Officers, Appellate Hearing Officers, and any person who facilitates an Informal Resolution

process, receive training on the following: the definition of Prohibited Conduct; the scope of the University's Education Program or Activity; how to conduct a resolution process including investigation, hearings, appeals, and Informal Resolution, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; technology to be used at a live hearing; and issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Any materials used to train Investigators will not rely on sex stereotypes and will promote impartial resolutions of Formal Complaints under this Policy.

XVIII. Records Retention

- A. The University will maintain for a minimum of seven (7) years, records of the following:
 1. **Investigations and Determinations.** Each Sexual Harassment investigation, including any determination regarding responsibility;
 2. **Recordings and Transcripts.** Any audio or audiovisual recording or transcript required;
 3. **Sanctions.** Any Sanctions imposed on the Respondent;
 4. **Remedies.** Any Remedies provided to the Complainant designed to restore or preserve equal access to the Education Program or Activity;
 5. **Appeals.** Any appeal and the result thereof;
 6. **Informal Resolutions.** Any Informal Resolution and the result therefrom;
 7. **Training Materials.** All materials used to train Title IX Officers, Investigators, Hearing Officers, and any person who facilitates an Informal Resolution process; and
 8. **Supportive Measures.** Any Supportive Measures, taken in response to a report or Formal Complaint of Prohibited Conduct. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its Education Program or Activity. If the University does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

XIX. External Government Agencies

Employee complaints relating to Prohibited Conduct may be directed to:

Equal Employment Opportunity Commission (EEOC)

GH Fallon Federal Building 31 Hopkins Plaza, Suite 1432

Baltimore, MD 21201

Telephone: 1-800-669-4000

Fax: ~~443-992-7880/410-209-2221~~

TTY: 1-800-669-6820

Website: ~~<https://www.eeoc.gov/> <https://eeov.eeoc.gov/eas/>~~

Commented [A8]: Non-functioning link

Maryland Commission on Civil Rights (MCCR)

William Donald Schaefer Tower

6 Saint Paul Street, ~~Ninth Floor~~ Suite 900

Baltimore, MD 21202-1631

Telephone: 410-767-8600

Fax: 410-333-1841

TTY: 410-333-1737

Website: <http://mccr.maryland.gov/>

E-mail: mccr@maryland.gov

Student or employee complaints relating to Prohibited Conduct may be directed to:

U.S. Department of Education, Office for Civil Rights (OCR)

~~U.S. Department of Education~~

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Telephone: 215-656-8541

Fax: 215-656-8605

TDD: 800-877-8339

Website: ~~<https://www2.ed.gov/about/offices/list/ocr/index.html>~~

~~<http://www2.ed.gov/about/offices/list/ocr/docs/tix-dis.html>~~

E-mail: OCR.Philadelphia@ed.gov

Commented [A9]: More appropriate contact info link

**UNIVERSITY OF MARYLAND PROCEDURES FOR INVESTIGATING AND
RESOLVING ALLEGATIONS OF SEXUAL HARASSMENT
AND OTHER SEXUAL MISCONDUCT**

I. Applicability

These Procedures are part of the *VI-1.60(A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct* and are the exclusive procedures that govern the handling of all reports or complaints of Prohibited Conduct under this Policy. These Procedures apply to all members of the University community, including students, faculty, and staff. They also apply to contractors and other third parties who are engaged in any University Education Program or Activity, or who are otherwise interacting with the University, including but not limited to volunteers, vendors, guests, and visitors.

Processes for handling reports and complaints of Prohibited Conduct may recognize the various roles the Parties play at the institution for the purposes of considering Supportive Measures, Remedies, Sanctions and Disciplinary Actions, and appeal procedures. The Office of Civil Rights & Sexual Misconduct (OCRSM) will assess the role of the Parties on a case-by-case basis for this purpose. In cases where the Parties exist in multiple roles at the institution, the process may impact them in any and all roles in which they operate, for the purposes of determining appropriate Supportive Measures, Remedies, and Sanctions.

II. Anticipated Timelines

The University's goals are to provide equal educational opportunities, promote campus safety, and remedy the effects of Prohibited Conduct. Good faith efforts will be made to complete Informal Resolutions, investigations and the adjudication process, if any, in a prompt, fair, and impartial manner. The OCRSM will conduct any investigation as promptly as possible under the circumstances, taking into account the complexity of the allegations, the complexity of the investigation and resolution, the severity and extent of the alleged misconduct, the number and availability of witnesses, the University's calendar, and/or other unforeseen circumstances. The University seeks to take appropriate action, including investigation and resolution of Formal Complaints, generally within one hundred twenty (120) Days from when the Formal Complaint is filed, by balancing principles of thoroughness and fundamental fairness. An extension of the timeframe may be necessary or granted for good cause in order to ensure the integrity and thoroughness of the investigation.

The Title IX Officer or designee may extend the timeframes set forth in this Policy and Procedures for good cause, with written notice of the extension to both Parties and the reason(s) for the delay. Written requests for delays by Parties may be considered. Factors considered in granting or denying an extension may include considerations such as, but not limited to, the following: the absence of a Party, a Party's Advisor, or a witness and/or the need for language assistance or accommodations of disabilities.

III. Right to Support Person and Advisor

A Party may be accompanied at any meeting held by the Title IX Officer or designee under these Procedures by up to two (2) people, including one (1) Support Person, and/or one (1) Advisor. When a Party wishes to be accompanied by a Support Person or Advisor to a meeting, the Party must notify the OCRSM or the Title IX Officer or designee in advance. Parties may select a Support Person or Advisor at any point before the conclusion of the resolution process. If a Party does not have an Advisor prior to a Hearing, the University will provide an Advisor of the University's choice to conduct cross-examination on behalf of that Party. In such cases, the Party has the right to request a change in their University-provided Advisor; the Title IX Officer or designee will determine whether such a request can be accommodated given the constraints of the Hearing process.

Throughout the process, the Title IX Officer or designee will communicate and correspond directly with the Parties, not indirectly through a Support Person or Advisor.

Prior to meetings and hearings, all Support Persons and Advisors must review non-Party participation requirements, which define their respective roles, appropriate decorum, and confidentiality obligations relative to the proceedings. These requirements may be viewed on the OCRSM website and may be obtained from the Title IX Officer or designee. Parties must ensure that Support Persons and Advisors follow these non-Party participation requirements.

In addition to the right to a Support Person and an Advisor, if the OCRSM or the Title IX Officer determines that a Party needs language assistance in order to fully engage in the process, accommodations will be made to allow for language assistance throughout the investigation and resolution process. Other similar accommodations including accommodations provided or arranged through the University's Accessibility and Disability Service (ADS) may be requested and considered throughout the process.

IV. Notification of Meetings, Interviews, and Hearings

Throughout the resolution process, the University will provide Parties and witnesses with written notification of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings to which they are invited or expected to participate. The written notification will be provided with sufficient time for the individual to prepare.

V. Report Intake and Formal Complaint

A. Receipt of Report of Prohibited Conduct

Upon receipt of a report alleging Prohibited Conduct from a Complainant, OCRSM will provide written acknowledgement of receipt of the report to the Complainant, if known, and include: a copy of this Policy and Procedures, options under the resolution process, and the Notice of Rights and Responsibilities.

The Complainant will be informed of available community and campus resources and services; available Supportive Measures as specified in Section V.C of these Procedures; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement; and the University's prohibition against Retaliation.

If the report is received from someone who is not the Complainant or the Respondent, OCRSM will provide written acknowledgement of receipt of the report and take appropriate action as the information provided allows.

Receipt of a report alleging Prohibited Conduct shall not constitute the filing of a Formal Complaint under this Policy.

As explained more fully below, the Complainant may ask OCRSM to take no further action beyond offering Supportive Measures, or they may file a Formal Complaint. Requests to take no further action will be assessed by the Title IX Officer or designee in alignment with Section V.E below.

B. Intake and Initial Assessment

OCRSM will contact the Complainant to conduct an intake and initial assessment, which will determine whether the reported conduct, if substantiated, would constitute a potential violation of this Policy. The Complainant can choose whether or not to participate with the intake and initial assessment process. If the Complainant opts not to participate, OCRSM may be limited in its ability to assess the report. The Complainant will have an opportunity to ask questions about options and resources and seek additional information. OCRSM will attempt to gather information that will enable OCRSM, in consultation with other appropriate University offices, to:

1. Assess a Complainant's request for Supportive Measures;
2. Assess the nature and circumstances reported;
3. Assess jurisdictional concerns regarding each Party;
4. Assess the safety of the Complainant and of the University community;
5. Implement any appropriate Supportive Measures;
6. Assess for pattern evidence or other similar conduct by the Respondent as relevant to the safety assessment;
7. Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
8. Assess any request by the Complainant for confidentiality or anonymity; and

9. Assess the reported conduct for possible referral to UMPD for a timely warning under the Clery Act.

When the initial assessment determines the alleged conduct would not constitute a potential violation under this Policy if substantiated, the Title IX Officer may try to resolve an issue without the filing of a Formal Complaint. The alleged conduct may also violate other University policies, and the report may be referred to another University process and/or office, including but not limited to the following: *VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures*, *V-1.00(B) University of Maryland Code of Student Conduct*, the Office of Student Conduct, University Human Resources, and/or the Office of Faculty Affairs, as appropriate.

C. Supportive Measures

OCRSM, in consultation with other appropriate University officials, facilitates Supportive Measures, which are available to the Parties upon the Title IX Officer or OCRSM receiving notification of alleged Prohibited Conduct. Filing a Formal Complaint is not required in order to access Supportive Measures. OCRSM will consider the Parties' wishes with respect to planning and implementing the Supportive Measures. OCRSM will maintain the reasonable confidentiality of the Supportive Measures, provided that this does not impair the ability to provide the Supportive Measures. OCRSM will act to ensure as minimal an academic and employment impact on the Parties as possible and implement Supportive Measures in a way that does not unreasonably burden either Party.

Supportive Measures may include, but are not limited to:

1. Academic Accommodations
 - a. Assistance in transferring to another section of a lecture or laboratory;
 - b. Assistance in arranging for incompletes;
 - c. Assistance with leave of absence;
 - d. Assistance with meeting or waiving course requirements;
 - e. Assistance with withdrawal from campus;
 - f. Assistance with communicating with faculty;
 - g. Rearranging class schedules;
 - h. Re-scheduling exams and assignments;

- i. Extensions of academic deadlines;
 - j. Retaking a course;
 - k. Dropping a course;
 - l. Academic support such as tutoring or other course/program related adjustments; and
 - m. Facilitating adjustments so Complainants and Respondents do not share the same classes.
2. Housing Accommodations
- a. Facilitating changes in on-campus housing location to alternate housing; and
 - b. Assistance in exploring alternative housing off-campus.
3. Employment Accommodations
- a. Arranging for alternate University employment;
 - b. Arranging different work shifts or a temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management; and
 - c. Extensions of work deadlines.
4. Care and Support
- a. Facilitating assistance for an individual to obtain medical, healthcare, advocacy, and therapy services;
 - b. Referral to the Faculty Staff Assistance Program (FSAP);
 - c. Referral to Campus Advocates Respond and Educate (CARE) to Stop Violence; and
 - d. Referral to community-based providers.
5. Community Education
- a. Education to the community or community subgroup(s);
 - b. Training; and

c. Bystander Intervention Program.

6. Safety

- a. Providing campus safety escorts;
- b. Providing transportation accommodations;
- c. Increased security and monitoring of certain areas of the campus;
- d. Transportation and parking arrangements;
- e. Assistance in making a report to law enforcement or obtaining a protective order;
- f. Safety planning; and
- g. Assisting a person in requesting that directory information be removed from public sources.

7. University Referrals

- a. Referral to Visa and Immigration assistance;
- b. Assistance in arranging appointments with University resources;
- c. Assistance with exploring changes in class and extra-curricular schedules; and
- d. Referral to student financial aid counseling.

8. Other

- a. No Contact Order; and
- b. Denial of Access to campus grounds and/or buildings.

OCRSM will promptly inform the Respondent of any Supportive Measures that will directly impact the Respondent.

The Title IX Officer or designee retains discretion to provide and/or modify any Supportive Measures based on all available information. Supportive Measures will remain in effect as necessary.

D. Filing of a Formal Complaint

A Formal Complaint alleging Prohibited Conduct against a Respondent may be filed with the Title IX Officer in person, by mail, by email, or online, by using the contact information listed in Section V of this Policy.

Should the Complainant decide to file a Formal Complaint, the Title IX Officer will review the Formal Complaint and determine whether it should be dismissed or move into the resolution process (see Section V.F of these Procedures).

E. Special Considerations: Requests for Anonymity and to Not Proceed

If a Complainant does not wish to disclose their personally identifiable information (i.e. wishes to remain anonymous) and/or does not wish to file a Formal Complaint, the Complainant may make such a request to the Title IX Officer or designee. Regardless of their choice, the Title IX Officer or designee will still offer Supportive Measures to the Complainant as appropriate. The Complainant retains the ability to file a Formal Complaint at any time.

The Title IX Officer has ultimate discretion over whether the University proceeds, and the Title IX Officer may sign a Formal Complaint to initiate the resolution process when appropriate. The Title IX Officer's decision to sign a Formal Complaint will be based on whether:

1. An investigation is needed to comply with legal anti-discrimination requirements or is otherwise the most appropriate and effective response;
2. The effect that non-participation by the Complainant may have on the availability of evidence and the ability to pursue the resolution process fairly and effectively; and/or
3. A violence risk assessment shows a compelling risk to health and/or safety which requires the University to pursue formal action to protect the University community. A compelling risk to health and/or safety may result from any combination of the following:
 - a. Evidence of patterns of misconduct;
 - b. Predatory conduct, threats, abuse of minors;
 - c. Allegations that the Prohibited Conduct was committed by multiple persons; and/or
 - d. Use of weapons and/or violence.

When the Title IX Officer signs the Formal Complaint, the Title IX Officer does not become the Complainant and is not otherwise a Party.

Overall, the University's ability to remedy and respond to the Formal Complaint may be limited if the Complainant does not want the University to proceed with the resolution process. The goal is to provide the Complainant with the opportunity to file a Formal Complaint and participate while balancing the University's obligation to protect its community.

F. Designation of Prohibited Conduct and Dismissal of Formal Complaint

As indicated above in Section V.B of this Policy, the Title IX Officer or designee will gather information to assess whether the reported conduct, if substantiated, would constitute a potential violation of the Policy. Title IX requires the University to determine whether the reported conduct is designated as Title IX-based Prohibited Conduct. A decision not to designate the alleged conduct as Title IX-based Prohibited Conduct constitutes a mandatory dismissal of the case for Title IX purposes⁵. However, this dismissal does not prevent the University from investigating and resolving the Formal Complaint through these Procedures if the reported conduct would meet the definition of ~~Other Sexual Misconduct or Retaliation in Sections VIII.B and VIII.C of this Policy~~ Prohibited Conduct and fall within the University's jurisdiction, if substantiated. The University will investigate and adjudicate these non-Title IX-based forms of Prohibited Conduct using these same Procedures. Dismissal under this Policy and Procedures also does not preclude a referral to another University process and/or office as indicated in Section V.B, as may be appropriate in cases where the reported conduct may violate other University policies.

Commented [A10]: See comment on pg. 11 regarding the proposed deletion of VIII.B.1. This revision streamlines and simplifies matters.

Upon receipt of a Formal Complaint, the Title IX Officer or designee will promptly send simultaneously to both Parties the *Written Notice of Formal Complaint* described in Section VI.C.3 of these Procedures, and a *Written Notice of Designation* of:

1. The decision about whether to designate the alleged conduct as Title IX-based Prohibited Conduct, and the reasons for this decision; ~~and~~
2. The decision to proceed with the resolution process or to dismiss the Formal Complaint as described below; ~~and~~
- ~~3. The Parties' rights to appeal the designation and/or dismissal decision.~~

Title IX-based Prohibited Conduct

The Title IX Officer or designee **must** designate the alleged conduct as Title IX-based Prohibited Conduct if:

1. The alleged conduct would constitute Sexual Harassment within an Education Program or Activity against a person in the United States if substantiated; and
2. The Complainant is participating or attempting to participate in an Education

⁵ This mandatory dismissal is required by 34 C.F.R. § 106.45(b)(3)(i).

Program or Activity at the time the Complainant files a Formal Complaint or when the Title IX Officer files a Formal Complaint because the alleged conduct meets the above definition.

Mandatory Dismissal

The Title IX Officer or designee ***must*** dismiss a Formal Complaint or any allegations therein if at any time during the Resolution Processes it is determined that:

1. The conduct alleged in the Formal Complaint, if substantiated, would not constitute Prohibited Conduct; or
2. The allegations in the Formal Complaint do not fall within the University's jurisdiction.

Permissive Dismissal

The Title IX Officer or designee ***may*** dismiss a Formal Complaint or any allegations therein if at any time during the Resolution Processes:

1. A Complainant notifies the Title IX Officer or designee in writing that the Complainant requests to withdraw the Formal Complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Respondent is not a member of the campus community or if they withdraw or leave during the process, the Title IX Officer or designee will determine whether the case should be dismissed or whether it should continue to be pursued in the absence of the Respondent. Decisions on whether to dismiss a case in these instances will be considered carefully. The Title IX Officer or designee will assess the effect that non-participation by the Respondent may have on the availability of evidence and the ability to pursue the resolution process fairly and effectively. If the Title IX Officer or designee determines that the case should be dismissed, the Title IX Officer or designee will still offer Supportive Measures to the Complainant as appropriate.

G. Appeal of Designation and/or Dismissal

Either Party may appeal the *Written Notice of Designation* **if there is a decision to: (1) dismiss the Formal Complaint; or (2) not designate the alleged conduct as Title IX-based Prohibited Conduct.** The bases for appeal are limited to procedural irregularity, new evidence, and conflict of interest as explained in Section VI.D.9.a of these Procedures. The process for the appeal is set forth in Section VI.D.9.c of these Procedures.

Commented [A11]: This revision clarifies that consistent with the Title IX regulations, only decisions to dismiss or to not designate the alleged conduct as Title IX-based conduct are appealable.

VI. Resolution Processes

A. Consolidation of Complaints

At the discretion of the Title IX Officer or designee, multiple reports may be consolidated ~~into one Informal Resolution and/or investigation during the Resolution Processes, including into a single investigation and/or hearing, if the information related to each incident is relevant in reaching a resolution~~ ~~allegations arise out of the same facts or circumstances~~. Matters may be consolidated where the matters involve multiple Complainants, multiple Respondents, or ~~related facts and circumstances involving multiple reports between~~ the same Parties, ~~including those arising out of the same or different events(s)~~.

Commented [A12]: This revision is recommended for legal compliance (more closely tracks the Title IX regulations) and clarity.

B. Informal Resolution Process

Informal Resolution may serve to address the alleged Prohibited Conduct as an alternative to proceeding to an investigation and Hearing. Informal Resolution can encompass a variety of approaches agreed to by the Parties including, but not limited to, mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions and Remedies facilitated by the Title IX Officer or designee.

The purpose of Informal Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the equal access to the Education Program or Activity, as well as to address the effects of the conduct on the larger University community.

1. Request for Informal Resolution

Either Party may request Informal Resolution, including their preferred approach of reaching a resolution, such as mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions and Remedies. Both Parties and the Title IX Officer or designee must agree to the process in writing. Either Party may terminate an ongoing Informal Resolution at any time prior to reaching an agreement.

The Title IX Officer or designee has the discretion to determine whether a Formal Complaint is appropriate for Informal Resolution and which resolution approach is best utilized given the specifics of the Formal Complaint. The Title IX Officer or designee retains discretion to terminate an ongoing Informal Resolution process at any time, at which point the Title IX Officer or designee will determine appropriate next steps. The Title IX Officer or designee will inform both Parties simultaneously in writing of the reason(s) for terminating an Informal Resolution process.

2. Informal Resolution Not Permitted

Although the Title IX Officer or designee retains discretion to determine whether a Formal Complaint is appropriate for Informal Resolution in other cases, Informal Resolution is not permitted under the following circumstances:

- a. Formal Complaints by a student alleging Sexual Harassment against an employee (staff or faculty); or
- b. Formal Complaints alleging Sexual Assault or Sexual Coercion.

3. Informal Resolution Permitted

When Informal Resolution is utilized, the process is voluntary and is not a requirement or condition of continued enrollment or employment at the University.

In such case, Parties will receive a written *Notice of Informal Resolution* containing the following:

- a. Summary of the allegations;
- b. Notice that neither Party is required to accept responsibility for the alleged Prohibited Conduct, unless a Respondent chooses to do so;
- c. Notice that there is no finding of a Policy violation or Sanction unless agreed to by the Respondent;
- d. Notice that agreement to Informal Resolution is not a waiver of right to proceed with an investigation and Hearing;
- e. Notice that until an Informal Resolution agreement is finalized, the Parties may, at any time, opt out of Informal Resolution, at which point the Formal Complaint would proceed or resume to investigation and Hearing, as appropriate;
- f. Notice of any potential consequences resulting from participating in the Informal Resolution process, including whether records will be maintained or could be shared;
- g. Notice that the reasonable confidentiality restrictions of the Informal Resolution process mean that information shared or obtained during this process cannot be used in an investigation and adjudication under these Procedures, if Informal Resolution fails;
- h. Notice that if an Informal Resolution agreement is finalized and implemented, it precludes the Parties from resuming investigation and adjudication of a

Formal Complaint arising from the same allegations; and

- i. Notice that the results of Informal Resolution are not eligible for appeal.

4. Mediation and Other Informal Resolution

Informal Resolution, including mediation, must be conducted by a trained facilitator who guides the Parties in a confidential dialogue to reach an effective resolution, if possible. Information shared or obtained during this process cannot be used in an investigation and adjudication under these Procedures, if Informal Resolution fails. The trained facilitator may be internal or external to the University depending on the needs of the specific case as determined by the Title IX Officer or designee. Sanctions are not possible as a result of Informal Resolution unless the Parties agree to accept Sanctions and/or appropriate Remedies.

5. Negotiated Informal Resolution Interventions and Remedies

If agreed to by the Parties and determined appropriate by the Title IX Officer or designee, the following Informal Resolution interventions and Remedies may be utilized, including but not limited to:

- a. Increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- b. Targeted or broad-based educational programming or training for relevant individuals or groups;
- c. Academic and/or housing modifications for either Party;
- d. Workplace modifications for either Party;
- e. Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct, and understand why the Prohibited Conduct is prohibited;
- f. Compliance with a No Contact Order;
- g. Compliance with a Denial of Access;
- h. Completion of community service hours over a specific period of time; and
- i. Separation from the University.

The Title IX Officer or designee will work with the Offices of Student Conduct, Human Resources, and/or Provost/Faculty Affairs as needed to facilitate such negotiated interventions and Remedies.

6. Completion of Informal Resolution

When an Informal Resolution agreement is reached and the terms of the agreement are implemented, the matter is resolved and closed. Appeals by either Party are not permitted. The Title IX Officer or designee is responsible for ensuring compliance with the agreement.

In cases where an agreement is not reached and the Title IX Officer or designee determines that further action is necessary, or if either Party fails to comply with the terms of the Informal Resolution, the matter may be referred for an investigation and adjudication under these Procedures, as appropriate.

The Parties will be provided with a written copy of the terms of the Informal Resolution agreement. The Title IX Officer or designee will maintain all records regarding Informal Resolution.

7. Respondent Acceptance of Responsibility

The Respondent may accept responsibility for all or part of the alleged Policy violation(s) at any point during the resolution process. If the Respondent wishes to accept responsibility and Informal Resolution is not prohibited under Section VI.B.2 above, the Title IX Officer may initiate the Informal Resolution process, after obtaining both Parties' voluntary, written consent, and after providing the required *Notice of Informal Resolution* if it has not already been provided.

Any remaining allegations that are not resolved through the Informal Resolution process may proceed to investigation or Hearing, as appropriate.

C. Investigation Process

When investigating a Formal Complaint, the below procedures will be utilized. However, at any time prior to reaching a determination regarding responsibility, an Informal Resolution may occur if appropriate conditions are satisfied (see Section VI.B of these Procedures).

1. Presumption of Not Responsible

Respondents are presumed not responsible for any and all allegations until the conclusion of the investigation and adjudication process. At the conclusion of the process, the University provides the Parties with the written determination of the final outcome following any appeal if an appeal is filed, or after the date by which an appeal must be filed has passed under Section VI.D.9.c.ii of these Procedures.

2. Notice of Rights and Responsibilities

The Complainant and Respondent are required to review and sign their *Notice of Rights and Responsibilities*. The Investigator will verify that the Parties have received, reviewed, and signed their *Notice of Rights and Responsibilities* and have been provided with a copy of this Policy and Procedures to ensure the Parties have adequate information about the investigation and adjudication. The Investigator will also ensure that both Parties have had an opportunity to ask and receive answers to any questions. ~~For staff, faculty, and third parties, the notice will be provided by the Title IX Officer or designee. For students, the notice will be provided by the Office of Student Conduct (OSC).~~

Commented [A13]: This revision is to clarify that OCRSM sends the Notice of Rights and Responsibilities for student parties (rather than OSC), in addition to sending such notice for faculty, staff, and third parties.

The *Notice of Rights and Responsibilities* will include but is not limited to the following:

- a. Right to be treated with dignity and respect by all University officials;
- b. Right for information to only be shared with others on a need-to-know basis in order to facilitate a resolution;
- c. Right to be informed of available Supportive Measures;
- d. Right to be informed of available community and campus resources and services;
- e. Right to a Support Person and/or an Advisor;
- f. Right to regular updates on the status of the investigation and/or resolution; and
- g. Prohibition against Retaliation and guidance about reporting any retaliatory conduct.

3. Written Notice of Formal Complaint

After a Formal Complaint is filed, the Parties will be provided a *Written Notice of Formal Complaint*. ~~The notice will be provided by the Title IX Officer or designee, which and~~ will include the following:

Commented [A14]: Similar to the above comment, this revision is to clarify that OCRSM sends the Notice of Formal Complaint to the parties.

- a. The University's complete Policy and Procedures as set forth herein;
- b. The allegations of Prohibited Conduct as defined by this Policy;
- c. The identities of the Parties involved, if known;
- d. The date(s), location(s), and time(s) of the alleged incident(s), if known;

- e. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the adjudication process;
- f. Information indicating that the Parties may have an Advisor of their choice, who may be an attorney and who may inspect and review evidence;
- g. Notice that if the Parties do not select an Advisor of their choice, the University will provide a trained Advisor prior to the pre-hearing meeting for purposes of performing cross-examination on behalf of that Party at the Hearing;
- h. Information indicating that the Parties may have a Support Person of their choice;
- i. Advisement that knowingly making false statements or knowingly submitting false information during the investigation and adjudication process is prohibited under Section XIII of this Policy;
- j. Notice that if the University decides to investigate additional allegations about either Party that are not in the original notice, the Parties will receive an amended notice containing the additional allegations; and
- k. The range of potential Sanctions associated with the alleged Prohibited Conduct.

4. Role of the Investigator

The Title IX Officer or designee will designate an Investigator(s) from OCRSM and/or an external Investigator to conduct a prompt, thorough, fair, and impartial investigation. The Investigator is responsible for conducting an objective investigation, including objectively evaluating all inculpatory and exculpatory evidence. The Investigator will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.

5. Overview of the Investigation

a. Standard of Proof

The standard of proof for a determination of responsibility under this Policy is Preponderance of the Evidence. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility remain with the University and not with the Parties.

b. Evidence

The investigation is an impartial fact-gathering process. It is an important stage of the process in which both Parties have an opportunity to be heard regarding the Formal Complaint. During the investigation, the Investigator will speak separately with both Parties and any other individuals who may have relevant information. No audio or video recording of any kind is permitted during such interviews. The Parties will each have an equal opportunity to present witnesses (including fact and expert witnesses, at their own expense) and any other relevant evidence.

Evidentiary materials, regardless of relevance, may be provided by a Party; however, the Investigator will determine whether and how the evidence and witnesses submitted by the Parties is directly related to the allegations and whether and how that information will be factored into the investigation. The Investigator will also gather any available physical evidence or documents, including prior statements by the Parties or witnesses, communications between the Parties, email messages, text messages, social media materials, and other records, as appropriate and available.

The University does not restrict the ability of Parties to discuss allegations that have been reported or to gather and present evidence. However, the University has a compelling interest in protecting the integrity of the resolution process, protecting the privacy of Parties and witnesses, and protecting Parties and witnesses from harassment, intimidation, or Retaliation during the resolution process. To further these goals, witnesses and Parties are encouraged to limit their sharing of information about a matter (including the allegations, the identities of the Parties and witnesses, and the questions asked in interviews) while the resolution process is ongoing. Parties and witnesses are also cautioned not to discuss the allegations in a manner that constitutes Retaliation or unlawful conduct.

c. Special Considerations

Information related to the prior sexual history of either Party is generally not relevant to the determination of a Policy violation. However, prior sexual history between the Parties may be relevant in very limited circumstances. For example, where there was a prior or ongoing consensual relationship between the Parties, and where Consent is at issue in the case at hand, evidence as to the Parties' prior sexual history as it relates to Consent may be relevant to assess the manner and nature of communications between the Parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to show Consent as defined in Section VII of this Policy. Sexual history will never be used for purposes of illustrating either Party's individual character or reputation. The Investigator will determine the relevance of prior sexual history and inform the Parties if information about the Parties' sexual history with each other is deemed relevant.

The University cannot access, consider, disclose, or otherwise use a Party's record(s) that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the capacity thereof or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party. However, a Party can provide voluntary, written consent to use the above-mentioned material for the investigation and adjudication. Such consent shall be specifically limited to the information provided. At no time shall consent be construed as consent to access any other information in the Party's records. If a Party provides consent to use such material during the investigation stage, and the evidence is directly related to the Formal Complaint, the material will be shared with the other Party as part of the evidence made available for their inspection and review.

The Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

d. Draft Investigation Report

At the conclusion of the investigation, the Investigator will provide a written investigation report (the *Draft Investigation Report*) that provides a case timeline, appropriately summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and outlines evidence that is directly related to the Formal Complaint.

e. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the Parties will be given an equal opportunity to review and meaningfully respond to the *Draft Investigation Report*. The Investigator will also send to the Party, and the Party's Advisor, if any, all evidence obtained that is directly related to the Formal Complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a Party or other source, for inspection and review. This evidence may be provided using electronic means that precludes downloading, forwarding, or otherwise sharing. Parties will have ten (10) Days to review the *Draft Investigation Report* and submit a written response, including comments, information, and/or questions to the Investigator.

If there is any new or additional information to be provided by either Party, it must be presented to the Investigator at this time. Any and all information for consideration by the Hearing Officer must be provided to the Investigator during the investigation phase of the process and otherwise will not be

allowed during the Hearing. If a Party requests that additional information be considered during the Hearing, the Party must clearly demonstrate that such information was not reasonably available to the Parties at the time of the investigation, or that the evidence has significant relevance to a material fact at issue in the investigation. If a Party provides or identifies evidence after the Final Investigation Report is issued, and the Hearing Officer determines that it was reasonably available to them during the investigation process, the Hearing Officer has the discretion to choose to consider such information, and may draw a negative inference from the Party's delay in providing or identifying the evidence. The Hearing Officer may, at their discretion, instruct that the investigation be re-opened to consider the evidence. In such cases, the evidence will be made available to the Parties for their review and comment prior to the Hearing.

If further investigation is warranted based on the Parties' written responses, the Investigator will continue the investigation, as needed. The Investigator will consider the Parties' written responses prior to completing the *Final Investigation Report*.

f. Final Investigation Report

Upon timely receipt of the Parties' written responses, or after the ten (10) Day review period has lapsed with no written responses, the investigation ends. The Investigator will complete the *Final Investigation Report*. The *Final Investigation Report* will contain summaries of all relevant information obtained throughout the course of the investigation and may contain an analysis of fact.

The *Final Investigation Report* will be submitted to the Hearing Officer.

D. Adjudication Process

1. Review of Final Investigation Report

- a. Following completion of the *Final Investigation Report*, the Title IX Officer or designee will provide each Party and each Party's Advisor, if any, with a confidential copy of the *Final Investigation Report*, including all attachments, and explain the next steps in the process. The *Final Investigation Report* may be provided using electronic means that precludes downloading, forwarding, or otherwise sharing. ~~meet separately with each Party and their Advisor, if applicable.~~ If a Party does not identify their Advisor at this time, the University will provide an Advisor for purposes of the pre-hearing meeting and Hearing.

~~At the meeting, the Title IX Officer or designee will provide each Party and each Party's Advisor, if any, with a confidential copy of the *Final*~~

~~Investigation Report, including all attachments, and explain the next steps in the process. The Final Investigation Report may be provided using electronic means that precludes downloading, forwarding, or otherwise sharing. If a Party does not have an Advisor present at this meeting, a confidential copy of the Final Investigation Report will be provided to the Party's Advisor prior to the pre-hearing meeting.~~

Commented [A15]: This revision is to reflect OCRSM's current practices.

- b. Each Party will be notified that they have ten (10) Days to submit a written response to the *Final Investigation Report* to the Title IX Officer or designee, which will be shared with and considered by the Hearing Officer. Exceptions to the 10-Day timeframe may be granted by the Title IX Officer or designee during times when the University is not in session or in other circumstances. After ten (10) Days have elapsed with no response and no request for an extension, the process will move forward without a written response. All written responses will be shared with the other Party prior to the Hearing.
- c. In order to protect the privacy of all individuals involved, all materials shared with the Parties are considered confidential and should not be publicly disclosed or released.

2. Hearing Case File

Before the pre-hearing meeting and Hearing, the Title IX Officer or designee will provide the Parties, their Advisors, and the Hearing Officer with access to the complete hearing case file. The hearing case file will include:

- a. The complete *Final Investigation Report*;
- b. All directly related evidence subject to the Parties' inspection and review as explained in Section VI.C.5.e of these Procedures; and
- c. The Parties' written responses to the *Final Investigation Report*.

3. Role of the Hearing Officer

- a. The Hearing Officer is responsible for maintaining an orderly, fair, and respectful Hearing. The Hearing Officer has broad authority to respond to disruptive behaviors, including adjourning the Hearing or excluding disruptive persons, and will ensure efficient administration of the Hearing. The Hearing Officer will have discretion to determine the structure of the Hearing and how questioning is conducted, including but not limited to the order of witnesses to be questioned, if any, consistent with these Procedures.
- b. The Hearing Officer will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not make any credibility determinations based on a person's status as a Complainant, Respondent, or

witness.

- c. The Hearing Officer is the decision maker responsible for determining whether or not the Policy was violated. The Hearing Officer is also the decision maker responsible for determining any appropriate Sanctions and other responsive actions imposed on the Respondent, if any, upon a finding of responsibility.

4. Pre-Hearing Meeting

- a. The Hearing Officer will convene a separate meeting with each Party and their Advisor and Support Person, if applicable, to:
 - i. Plan for the Hearing;
 - ii. Identify their Advisor and, if applicable, Support Person;
 - iii. Review the Procedures to be followed at the Hearing;
 - iv. Discuss the process of raising a concern that the Hearing Officer has an impermissible bias or conflict of interest as set forth in Section VI.D.5.b.v, below;
 - v. Review the complete list of witnesses that will be asked to appear in accordance with paragraph (c), below;
 - vi. Discuss any technology that will be used at the Hearing and how to operate such technology;
 - vii. Discuss the time allotted for the Hearing and any time limitations; and
 - viii. Answer any other questions or remaining concerns prior to the Hearing.
- b. Attendance at the pre-hearing meeting is strongly encouraged for each Party. A Party's decision not to participate may result in decisions regarding witnesses and procedural matters being made without their input. If neither Party attends the pre-hearing meeting, the Hearing Officer will determine all procedural matters in advance of the Hearing.
- c. Generally, the University will request that all witnesses interviewed during the investigation attend the Hearing for questioning. However, the Hearing Officer, only with full agreement of the Parties, may decide through the pre-hearing meeting(s) that certain witnesses do not need to be invited to the Hearing if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the Hearing. Any such agreement will be confirmed in writing by both Parties. The Hearing

Officer has the discretion to request the attendance of other witnesses in accordance with Section VI.D.6.h.

5. Written Notice of Hearing

- a. The Title IX Officer or designee will use reasonable efforts to consult with all involved individuals, including the Complainant, Respondent, Support Persons, Advisors, and witnesses, in order to schedule the Hearing.
- b. Parties will receive a *Written Notice of Hearing* at least ten (10) Days in advance of the Hearing. The Notice will include pertinent information about the Hearing, its procedures, and the rights and responsibilities of the Parties, and will include the information below.
 - i. The Notice will include a description of the charges of Policy violation(s), a copy of the applicable Hearing procedures, and a statement of the potential Sanctions/responsive actions that could result.
 - ii. The Hearing date, time, location, purpose, and the list of participants, including the complete list of witnesses requested to attend the Hearing for questioning, will be provided.
 - iii. The Hearing Officer may reschedule the Hearing if necessary to facilitate the participation of Parties and witnesses, or for other reasons that they deem to be compelling.
 - iv. Each Party must have an Advisor present at the Hearing, without exception. If a Party does not have an Advisor present at the Hearing, the University will provide one free of charge for the purpose of conducting cross-examination on behalf of that Party at the Hearing.
 - v. The Parties may object to the Hearing Officer on the basis of demonstrated bias or conflict of interest for or against Complainants or Respondents, generally, or for or against the individual Complainant or Respondent. Objections must be raised with the Title IX Officer or designee at least two (2) Days prior to the Hearing.
 - vi. A Party's participation is voluntary and a Party may choose not to appear at the Hearing. However, if any Party does not appear at the scheduled Hearing after receiving appropriate notice, the Hearing will be held in their absence, unless there are extenuating circumstances as determined by the Hearing Officer. ~~Any statements given by the Party prior to the Hearing will not be considered by the Hearing Officer (though the Hearing Officer may continue to consider and rely on alleged verbal conduct that constitutes all or part of the underlying alleged Prohibited Conduct itself).~~ The Hearing Officer will make a determination regarding

Commented [A16]: This provision from the Title IX regulations is no longer in effect/enforced by the Department of Education's Office for Civil Rights due to a federal court decision, *Victim Rights Law Center et al. v. Cardona*. OCRSM has been providing notice of this change to Parties/Witnesses via the Notice of Hearing, but the Policy should be officially revised at this point for legal compliance and clarity for readers.

For background information on the court decision and OCR's guidance, see: OCR Q&As on the Title IX Regulations on Sexual Harassment (Updated June 28, 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf> at pp. 26-29

See also below revision and commenting the Hearing Procedures section.

responsibility and any sanctions, if appropriate, without the participation of the absent Party.

- vii. The hearing case file, including all directly related evidence subject to the Parties' inspection and review as explained in Section VI.D.2 of these Procedures, will be available at the Hearing to give each Party equal opportunity to refer to evidence during the Hearing, including for purposes of cross-examination.
- viii. A copy of all the materials provided to the Hearing Officer about the matter will be shared with the Parties, unless they have been provided already.
- ix. The Parties may contact the Title IX Officer or designee to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the Hearing. Such accommodations must be requested at least seven (7) Days prior to the Hearing.
- x. The Notice will indicate whether the Parties may bring mobile phones or other devices into the Hearing, and any related restrictions.
- xi. The Hearing Officer may conduct the Hearing with all Parties and witnesses physically present in the same geographic location or with any or all Parties, witnesses, and other participants virtually present at the Hearing. Technology enabling virtual participation must allow participants simultaneously to see and hear each other.
- xii. At either Party's request, the University will provide the Parties with separate rooms or separate virtual rooms. The University will use technology enabling the Hearing Officer and Parties to simultaneously see and hear the Party or the witness who is answering a question.
- xiii. The Hearing is closed to the public.
- xiv. The Hearing will be recorded by the University (either audio or audio-visual). No other recordings are permitted. Recordings are maintained by the University. Parties may submit a written request to the Title IX Officer to inspect and review the recording after the Hearing.

6. Hearing Procedures

- a. The Hearing does not take place within a court of law and is not bound by formal rules of evidence that apply to court proceedings.
- b. The Hearing Officer will preside over the Hearing.

- c. The Investigator will summarize the *Final Investigation Report* and clarify any information in the *Final Investigation Report*.
- d. Each Party may provide a brief opening statement.
- e. Each Party's Advisor will be provided an opportunity to cross-examine the other Party and any witnesses. Questioning will be conducted directly, orally, and in real time by the Party's Advisor only. Parties may not question each other or witnesses directly.
- f. The hearing case file and all directly related evidence subject to the Parties' inspection and review as explained in Section VI.D.2 of these Procedures will be available at the Hearing to give each Party equal opportunity to refer to evidence during the Hearing, including for purposes of cross-examination.
- g. Any and all information for consideration by the Hearing Officer must be provided to the Investigator during the investigation phase of the process and otherwise will not be allowed during the Hearing.
 - i. If a Party requests that additional information be considered during the Hearing, the Party must clearly demonstrate that such information was not reasonably available to the Parties at the time of the investigation, or that the evidence has significant relevance to a material fact at issue in the investigation.
 - ii. If a Party provides or identifies evidence after the Final Investigation Report is issued, and the Hearing Officer determines that it was reasonably available to them during the investigation process, the Hearing Officer has the discretion to choose to consider such information, and may draw a negative inference from the Party's delay in providing or identifying the evidence.
 - iii. The Hearing Officer may, at their discretion, instruct that the investigation be re-opened to consider the evidence. In such cases, the evidence will be made available to the Parties for their review and comment prior to the Hearing.
- h. The Hearing Officer will generally exclude from the Hearing any witnesses who were not previously identified during the investigation and requested to attend by the University.
 - i. If a Party wishes to present another witness, they must clearly demonstrate that the witness was not reasonably available or not reasonably known to the Parties at the time of the investigation, or that the witness is likely to have information that has significant relevance to a material fact at issue in

the investigation.

- ii. The Hearing Officer may, at their discretion, choose to consider information from such witnesses and may draw a negative inference from the Party's delay in identifying the witness.
 - iii. The Hearing Officer may, at their discretion, instruct that the investigation be re-opened to allow that witness to be interviewed. In such cases, the interview will generally be conducted by the Investigator and a summary of information provided by the witness will be made available to the Parties for their review and comment prior to the Hearing.
- i. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. All relevant questions and follow-up questions, including those challenging the credibility of Parties and witnesses, will be allowed. Consistent with the foregoing, the Hearing Officer may also exercise their discretion to exclude any questions they deem to be harassing or unnecessarily repetitive, and will explain any decision to exclude a question on these grounds.
 - j. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence:
 - i. Are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
 - ii. Concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove whether Consent was present.
 - k. Questions and evidence about the Respondent's prior sexual history with an individual other than a Party to the proceedings may only be considered if the evidence:
 - i. Proves prior sexual misconduct;
 - ii. Supports a claim that a Party has an ulterior motive; or
 - iii. Impeaches a Party's credibility after that Party has put their own prior sexual conduct in issue.
 - l. The Hearing Officer may not consider a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party,

unless the University obtains that Party's voluntary, written consent to provide that information for consideration.

- m. The Hearing Officer may not consider any questions or evidence about a student's history of mental health counseling, treatment, or diagnosis, unless the student consents to providing that information for consideration.
- n. The Hearing Officer may not consider questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

~~o. If a Party or witness does not answer the cross-examination questions that are deemed relevant by the Hearing Officer, if any, then the Hearing Officer must not rely on any statement by that Party or witness in reaching a determination regarding responsibility.~~

~~i. This prohibition applies to statements made by the Party or witness at the Hearing, in the investigative report, and in evidence, such as in a police report, medical report, or other record.~~

~~ii. The Hearing Officer may continue to consider and rely on alleged verbal conduct that constitutes all or part of the underlying alleged Prohibited Conduct itself.~~

~~iii. The Party or witness's reason for refusing to answer a relevant question does not matter.~~

~~p. A Party's or witness's failure to answer a question posed by the Hearing Officer does not trigger a prohibition against relying on that Party's or witness's other statements. However, [the Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.~~

~~q. During the Hearing, the Hearing Officer may call for or grant requests for recesses as needed, and the Hearing Officer retains the discretion to balance recesses with the need to conduct the Hearing in an orderly and timely fashion. Each Party may request recesses if needed to speak privately with an Advisor or Support Person, or for other reasons. The Hearing Officer may suggest recesses if they feel it may be helpful to a Party, particularly during cross-examination.~~

~~r. Each Party will have the opportunity to make a brief closing statement.~~

~~s. The Hearing Officer may determine that multiple sessions or a pause in the continuation of the Hearing until a later date or time is needed to complete the~~

Commented [A17]: This provision from the Title IX regulations is no longer in effect/enforced by the Department of Education's Office for Civil Rights due to a federal court decision, *Victim Rights Law Center et al. v. Cardona*. OCRSM has been providing notice of this change to Parties/Witnesses via the Notice of Hearing, but the Policy should be officially revised at this time for legal compliance and clarity for readers.

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Hearing. If so, the Hearing Officer or Title IX Officer or designee will notify all participants and will endeavor to accommodate all participants' schedules to complete the Hearing as promptly as practicable.

7. Written Notice of Determination

The Hearing Officer will provide the Parties with a *Written Notice of Determination* at the same time. The *Written Notice of Determination* will include:

- a. Identification of the allegations at issue;
- b. A description of the procedural steps taken throughout the case;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding application of the Policy to the facts;
- e. A statement of, and rationale for, the determination for each allegation;
- f. A statement of, and rationale for, any Sanctions imposed on the Respondent, and whether any Remedies will be provided to the Complainant, as set forth in more detail below; and
- g. A description of the procedures and permissible grounds for appeal.

8. Disciplinary Sanctions, Remedies, and Other Responsive Actions

The University may take responsive action based on a determination of responsibility for a violation of the Policy. Responsive action is intended to eliminate Prohibited Conduct, prevent its recurrence, and promote accountability while supporting the University's educational mission and legal obligations. Responsive action may include Sanctions, Remedies, or other responsive action including rehabilitation, educational, restorative, or monitoring components.

- a. Prior to issuing the Written Notice of Determination, the following will occur:

~~i. Parties will have the option to provide written impact statements to the Hearing Officer within three (3) Days of completion of the Hearing.~~

~~ii.~~ The Hearing Officer shall confer with the Title IX Officer or designee, and shall confer with other University administrators as appropriate, prior to issuing the written determination.

- a) Other University administrators may include UHR/Staff Relations and

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Commented [A18]: The submission of impact statements is an unnecessary step in the process, is not required by the Title IX regulations, and has led to parties asking for copies of the other party's submission, confusion, and arguments by parties on appeal.

department/unit heads and supervisors for staff, and the Provost's Office/Faculty Affairs and department/unit heads and supervisors for faculty.

- b) In determining an appropriate sanction for staff Respondents, the Hearing Officer shall consult with UHR/Staff Relations prior to issuing the Written Notice of Determination.
- c) If termination and/or removal of tenure may be an appropriate sanction for faculty Respondents, the Hearing Officer shall consult with the Provost, who shall consult with other administrators, as deemed appropriate by the Provost.

~~iii~~.ii. _____ Although the Hearing Officer shall confer with University officials as described above, the Hearing Officer is the decisionmaker responsible for issuing the *Written Notice of Determination*.

~~iv~~.iii. _____ The Title IX Officer or designee and other University administrators will provide input with respect to any recommended Sanction and other responsive action to the Hearing Officer.

~~v~~.iv. _____ The University will not publicly disclose personally identifiable information about the Parties or the written determination (including any Sanctions) except as required by law.

b. The range of Sanctions and other responsive actions that may be imposed upon the Respondent include, but are not limited to, the following:

i. For students:

- a) Degree revocation: Rescinding a degree previously awarded by the University. A permanent notation will appear on the student's transcript.
- b) Expulsion: Permanent separation of the student from the University. A permanent notation will appear on the student's transcript. The student will also be barred from University premises (grounds and buildings). ~~Pursuant to delegated authority, the Vice President for Student Affairs shall administratively approve expulsions.~~
- c) Suspension: Separation of the student from the University for a specified period of time. A permanent notation will appear on the student's transcript. The student shall not participate in any University-sponsored activity and may be barred from University premises (grounds and buildings) during the period of suspension. Suspended

Commented [A19]: This revision is recommended to streamline the process. Per the Title IX regulations, the Hearing Officer's decision (or Appellate Hearing Officer's decision, if there is an appeal) as to responsibility and any sanction is final and not subject to further review. This administrative sign-off for suspensions and expulsions of students is not required. There is no similar administrative sign-off for determinations against faculty or staff respondents.

time will not count against any time limits required by the Graduate School for completion of a degree. A sanction of suspension may be withheld. ~~Pursuant to delegated authority, the Vice President for Student Affairs shall administratively approve suspensions.~~

Commented [A20]: Please see above comment.

- d) Disciplinary Probation: The student is prohibited from representing the University in any extracurricular activity or from running for or holding office in any student or University organization. Additional restrictions or conditions may also be imposed.
 - e) Disciplinary Reprimand: Warning to the student that further misconduct may result in a more severe disciplinary action.
 - f) Educational Sanctions: In addition to Sanctions specified above, educational Sanctions that provide the student with learning, assistive or growth opportunities, research or reflective assignments, community services, values/ethics-based activities or other learning-based sanctions.
 - g) Housing Sanctions which may include, but are not limited to: University Housing Termination, Denial of Re-contracting with University Housing, Administrative Room Moves, and Housing Probation. Students who are terminated from Housing or are Denied the ability to Recontract with University Housing are rendered ineligible to lease space in the Courtyards at Maryland and South Campus Commons apartment communities, as well as some University-owned Fraternity and Sorority houses.
 - h) No Contact Order.
 - i) Denial of Access to campus grounds and/or buildings.
- ii. For staff:
- a) Separation from employment, up to and including termination;
 - b) Suspension without pay;
 - c) Reassignment;
 - d) Written reprimand;
 - e) Education and training
 - f) No Contact Order; and
 - g) Denial of Access to campus grounds and/or buildings.

- iii. For faculty:
 - a) Separation from employment, up to and including termination and loss of tenure;
 - b) Suspension without pay;
 - c) Reassignment;
 - d) Written reprimand;
 - e) Education and training;
 - f) No Contact Order; and
 - g) Denial of Access to campus grounds and/or buildings.
- iv. For third parties:
 - a) Restrictions on participation in University programs or activities, attendance at University events, or ability to enter campus grounds and/or buildings.
- c. The following factors will be considered before imposing Sanctions and other responsive actions on a Respondent:
 - i. The nature and degree of violence involved in the conduct at issue.
 - ii. The impact of the conduct on the Complainant.
 - iii. The impact of the conduct on the community and/or the University.
 - iv. Prior relevant misconduct by the Respondent.
 - v. Maintenance of a safe and respectful environment conducive to working and learning.
 - vi. Protection of the University community.
 - vii. Any other mitigating, aggravating or compelling circumstances appropriate to reaching a just and appropriate resolution.
- d. The range of Remedies that may be provided to a Complainant:

The University may provide reasonable Remedies to a Complainant based on

a determination of responsibility for a violation of the Policy. The range of Remedies that may be provided to a Complainant include, but are not limited to:

- i. For students:
 - a) Supportive measures: such as extended classwork deadlines, flexible deadlines on course deliverables, change of venue for taking a test or exam, change in test or exam date and/or retaking of a test or exam.
 - b) Academic accommodations: such as retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests and/or tuition reimbursement.
 - c) Additional accommodations: such as a No Contact Order, Denial of Access for the Respondent, housing accommodation, course schedule changes, counseling, referral to University resources including CARE to Stop Violence, and/or referral to outside agencies.
- ii. For staff:
 - a) Supportive measures: such as reassignment to a different shift, location, supervisor or work unit.
 - b) Additional accommodations: such as counseling, referral to University resources including CARE to Stop Violence, and/or referral to outside agencies.
- iii. For faculty:
 - a) Supportive measures: such as reassignment of duties, change in work location, change in service assignments, change in reporting structure.
 - b) Additional accommodations: such as counseling, referral to University resources including CARE to Stop Violence, and/or referral to outside agencies.
- iv. For third parties:
 - a) Referral to outside agencies/resources.
 - b) Connection with another institution's Title IX Coordinator, if applicable.
- e. In the event of a written determination that the Respondent violated the Policy and that Remedies provided to the Complainant are warranted, the following

will occur:

- i. Remedies will be provided to the Complainant on a confidential basis.
- ii. The written determination issued by the Hearing Officer will not include specific Remedies provided to the Complainant but will state whether Remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided.
- iii. Remedies are considered confidential and the Respondent will not have access to specific information about what Remedies will be provided except to the extent that the Remedies are punitive and burden the Respondent.
- iv. Remedies may not be appealed by either Party.
- v. The University will not publicly disclose personally identifiable information about the Parties, the written determination, or the Sanctions, except as required by law.

9. Appeals

a. Bases for Appeals

Either Party may initiate this appeal process when the Party receives a *Written Notice of Designation* or a *Written Notice of Determination*. Appeals of a *Written Notice of Designation* are limited to where there is a decision to: (1) dismiss the Formal Complaint; or (2) not designate the alleged conduct as Title IX-based Prohibited Conduct. Appeals must be submitted in writing to the Title IX Officer within five (5) days of receipt of the *Written Notice of Designation* or the *Written Notice of Determination*. Appeals are limited to the bases listed below.

i. Procedural Irregularity

- a) In all cases, the procedural irregularity must be one that affects the ultimate outcome of the designation or the written determination.
- b) A procedural irregularity affecting the designation or the written determination may include: a failure to follow the University's procedures; a failure to objectively evaluate all relevant evidence, including inculpatory or exculpatory evidence; or a determination regarding what evidence was excluded as irrelevant.

ii. New Evidence

Commented [A21]: See revision on pg. 31. This revision clarifies that consistent with the Title IX regulations, only decisions to dismiss or to not designate the alleged conduct as Title IX-based conduct are appealable (as to the *Written Notice of Designation*).

- a) New Evidence is evidence that was not reasonably available at the time the designation or written determination was made, and that is significant and relevant enough that it could affect the outcome.
 - b) Evidence presented prior to the time the designation or written determination is issued does not qualify as new evidence, as it was reasonably available at the time.
- iii. Conflict of Interest or Bias
- a) The Title IX Officer or designee, Investigator, or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the designation or written determination.
 - b) Appeals submitted on the grounds of conflict of interest or bias should be based on the current case and process in question and will be assessed accordingly.
- iv. Substantially Disproportionate Sanction as given within the *Written Notice of Determination*
- a) The Sanction set forth in the written determination is substantially disproportionate to the offense, which means it is unreasonable given the facts or circumstances of the particular Policy violation.
- b. Appellate Hearing Officer

Appeals will be reviewed by the designated Appellate Hearing Officer~~(s)~~ for all appeals of designations or written determinations under these Procedures. The Appellate Hearing Officer~~(s)~~ will be determined in accordance with the Respondent's status, as explained below. The Appellate Hearing Officer~~(s)~~ shall be free from conflict of interest or bias and shall not be the same person who reached the determination regarding the designation or the written determination, the Investigator, or the Title IX Officer. ~~The~~ Appellate Hearing Officers will have had no previous involvement with the case that the Appellate Hearing Officer~~(s)~~ ~~is~~ assigned to review.

- i. Appeals involving a student Respondent shall be reviewed by a ~~panel of trained Appellate Hearing Officers known as the University Senate Student Conduct Committee~~ appointed by the Title IX Coordinator. ~~The Title IX Coordinator may appoint trained University employees and/or external hearing officers to serve as an Appellate Hearing Officer.~~
- ii. Appeals involving a staff or third-party Respondent shall be reviewed by the Vice President and Chief Administrative Officer (VP&CAO) or

Commented [A22]: Note: A separate Senate proposal will be submitted with respect to this proposed procedural change.

designee. The VP&CAO or designee may appoint trained staff members available to serve as an Appellate Hearing Officer. Appeals involving staff or third-party Respondents may be assigned to one such Appellate Hearing Officer on a rotating case basis.

- iii. Appeals involving a faculty Respondent shall be reviewed by the Senior Vice President and Provost (Provost) or designee. The Provost or designee may appoint trained faculty members available to serve as an Appellate Hearing Officer. Appeals involving faculty Respondents may be assigned to one such Appellate Hearing Officer on a rotating case basis.

c. **Appellate Process**

The appellate process following a *Written Notice of Designation* or *Written Notice of Determination* will proceed as follows:

- i. Appeals will be in writing only. There will be no Hearing.
- ii. Parties will have five (5) Days from receipt of a *Written Notice of Designation* or *Written Notice of Determination* to submit a written appeal statement challenging the decision.

iii. A written appeal shall consist of a plain, concise and complete written statement outlining the basis for appeal and all relevant information to substantiate the appeal. Dissatisfaction with the outcome is not sufficient grounds for appeal. The appeal will be narrowly tailored to the stated appeal grounds.

iii-iv. ~~Parties will be notified if the other Party files a written appeal statement and given notice in writing of the general grounds for the appeal.~~ The other Party will be given five (5) Days from receipt of the other Party's written appeal statement to submit a written appeal statement in support of the designation or written determination. All appeals and responses to appeals will be shared with the Party.

iv-v. ~~The Title IX Officer or designee shall coordinate the scheduling of the Appellate Hearing Officer(s) and notify the Parties of the date of the appeal deliberation.~~

v. ~~The appeal deliberation is closed to the parties.~~

- vi. The Appellate Hearing Officer(s) will issue a written decision including its rationale, which decision shall be shared with both Parties, within ten (10) Days of the Appellate Hearing Officer's receipt of the appeal

Commented [A23]: Proposed revisions in this section are to clarify basic aspects of the appeals process.

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~~materials~~deliberations.

- vii. The Appellate Hearing Officer~~(s)~~ may:
- a) affirm the designation or written determination;
 - b) overturn the designation or written determination;
 - c) affirm the determination of responsibility and modify the sanction if it is found to be substantially disproportionate; or
 - d) remand the case to remedy procedural errors, remedy a conflict of interest or bias, or consider new evidence. A decision to remand shall include instructions narrowly tailored to remedy the identified issue(s).
- viii. If a case is remanded, the case will be remanded to the original Hearing Officer if feasible, except in exceptional circumstances where the Appellate Hearing Officer determines that the case should be remanded to a new Hearing Officer due to the nature of the identified issue. If there is an appeal following a remand, the case will be reviewed by the original Appellate Hearing Officer on appeal if feasible.

Commented [A24]: This revision is recommended to clarify process in this scenario.

~~viii-ix.~~ ix. The written decision by the Appellate Hearing Officer~~(s)~~ is final and is not subject to further appeal.

~~ix-x.~~ x. After the appeal process is concluded or when the time for filing an appeal has expired and neither Party has submitted an appeal, the Title IX Officer or designee shall notify the Parties simultaneously of the final outcome of the adjudication process.

~~x-xi.~~ xi. The determination regarding responsibility for a violation of the Policy becomes final either on the date that the University provides the Parties with the written decision of the result of the appeal if an appeal is filed, or if an appeal is not filed, after the five (5) Day period for filing an appeal has lapsed. In cases that are remanded by the Appellate Hearing Officer~~(s)~~, the determination will not become final until all remanded proceedings are completed.

10. Academic Transcripts and Effect of Withdrawal on Student Respondents

Following completion of all appeals processes, Sanctions of expulsion and suspension are permanently noted on a student Respondent's academic transcript. In the event a Respondent chooses to withdraw from the University prior to the resolution of a Formal Complaint, or where the Respondent declines to participate in the University proceedings under this Policy and Procedures, the University will continue the resolution process in accordance with these Procedures. When a

Respondent withdraws before the conclusion of the resolution process, the Respondent is ineligible to return to the University until the resolution process has concluded.

11. Post-Resolution Follow-Up

After any Sanction and/or Remedies are issued, if the Complainant agrees, the Title IX Officer or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional Remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any Sanction and/or Remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any Sanction and/or Remedies imposed under the Policy, or a failure by a University employee to provide specified Sanctions or Remedies should be reported to the OCRSM. OCRSM will take appropriate steps to address any such violation or failure, or will refer it to appropriate University offices for review under other disciplinary procedures.

The Complainant and Respondent are encouraged to provide the Title IX Officer or designee with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the University's implementation of this Policy and Procedures.



Policy Number: VI-1.60(A)

UNIVERSITY OF MARYLAND POLICY AND PROCEDURES ON SEXUAL HARASSMENT AND OTHER SEXUAL MISCONDUCT

(Approved on an interim basis October 13, 2014; Amended May 4, 2015; Amended October 1, 2015; Amended March 21, 2016; Amended May 13, 2016; Amended and approved on an interim basis June 24, 2019; Amended and approved by the President on December 12, 2019; Amended and approved on an interim basis effective August 14, 2020; Amended May 10, 2021; Amended and approved on an interim basis by the President August 23, 2021)

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I. Introduction

The mission of the University of Maryland (“the University”) is to cultivate a transformative educational, scholarly, and professional experience for all members of its campus community while safeguarding their personal health and well-being. The University is committed to creating a collaborative environment open to the free exchange of ideas, where scholarship, creativity, innovation, and entrepreneurship can flourish and where individuals can achieve their full potential. The University affirms that commitment by striving to maintain an academic and work environment that empowers all to work, study, innovate, and perform without fear of sexual misconduct, sexual violence, and power-based violence. Such misconduct and violence diminish individual dignity, are contrary to the values of the University, and are a barrier to the fulfillment of the University’s mission. It is incumbent upon every member of the University community to foster an environment free from sexual misconduct by upholding the University’s core mission and values, and by working together to avoid harmful situations through a shared understanding of how to prevent sexual misconduct and how to address it if it occurs.

II. Purpose

Prohibited Conduct undermines the character and purpose of the University and the University will take appropriate prompt and effective action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The purpose of this Policy and Procedures is to describe the Prohibited Conduct; describe how to report or file a complaint; provide resources for counseling, safety, emotional support, and advocacy; articulate the procedures for investigating and resolving complaints; and articulate awareness and educational training objectives.

The University acknowledges its commitment to a working and learning environment free from sexual misconduct through training, education, prevention programs, and policies and procedures that promote prompt reporting and response, provide support to persons alleged to be victimized, prohibit retaliation, and implement timely, fair, and impartial investigations and resolutions that ensure due process and remedy Policy violations. Sexual Harassment, Other Sexual Misconduct, and Retaliation are Prohibited Conduct and will not be tolerated in any form. This Prohibited Conduct corrupts the integrity of the educational process and work environment and violates the core mission and values of the University, and the University will address such conduct in accordance with this Policy.

Nothing in this Policy and Procedures should be interpreted to abridge academic freedom or principles of free speech. The University will not condone behavior that violates the freedom of speech, choice, assembly, or movement of other individuals or organizations. In short, responsible dissent carries with it sensitivity for the civil rights of others.

III. Scope and Applicability

This Policy prohibits Sexual Harassment, Other Sexual Misconduct, and Retaliation. This Prohibited Conduct may be a form of sex discrimination prohibited by federal and Maryland State discrimination laws, including Title IX of the Education Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act of 1964 (Title VII). This Policy also is in compliance with the University’s obligations under Maryland law and University System of Maryland Policy VI-1.60.

This Policy addresses the University's obligations under Title IX. Title IX provides, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The University, under this Policy, goes beyond Title IX to include in its Prohibited Conduct other forms of sexual misconduct that are antithetical to the University's core mission and values. This Policy also addresses allegations of Other Sexual Misconduct, which includes Sexual Harassment that occurred against a person outside of the United States or not within an Education Program or Activity; Sexual Coercion; Sexual Exploitation; Sexual Intimidation; Attempted Sexual Assault; and Other Sex-Based Offenses. Retaliation is also addressed.

Federal regulations implementing Title IX require that the University follow certain procedures when the University obtains Actual Knowledge of Sexual Harassment in its Education Program or Activity against a person in the United States. The University of Maryland fulfills those requirements through these Procedures. This Policy and Procedures govern all forms of Prohibited Conduct that is alleged to be in violation of Title IX and this Policy.

This Policy applies to all members of the University community, including students, faculty, and staff. It also applies to contractors and other third parties who are engaged in any University Education Program or Activity, or who are otherwise interacting with the University, including, but not limited to volunteers, vendors, guests, and visitors. All University members are prohibited from engaging in, or assisting or abetting another's engagement in Sexual Harassment, Other Sexual Misconduct, or Retaliation.

This Policy applies to all reports of Prohibited Conduct occurring on or after the effective date of this Policy. Where the date of the alleged Prohibited Conduct precedes the effective date of this Policy, the definitions of misconduct in existence at the time of the alleged incident(s) will be used. The Procedures under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the alleged incident(s) occurred.

To the extent any provision of this Policy conflicts with any other University policy, this Policy controls. Prohibited Conduct under this Policy may also be sex discrimination in violation of *VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures*. However, this Policy and Procedures supersedes *VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures* with respect to allegations of Prohibited Conduct addressed by this Policy. The University will respond to reports and complaints of Prohibited Conduct in accordance with this Policy and Procedures.

IV. Jurisdiction

A. This Policy applies to reported acts of Prohibited Conduct committed by or against students, faculty, staff, and third parties when:

1. Conduct occurs on University premises, in any University facility, or on property owned or controlled by the University;
2. Conduct occurs in the context of a University Education Program or Activity, including, but not limited to, University-sponsored academic, athletic, extracurricular, study abroad, research, online or internship programs or activities;
3. Conduct occurs outside the context of a University Education Program or Activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third parties while on University premises or other property owned or controlled by the University or in any University Education Program or Activity; or
4. Conduct otherwise threatens the health and/or safety of University members.

B. The University does not have jurisdiction to investigate reported incidents involving members of the University community that occurred prior to the individual being enrolled at or employed by the University when the incident did not occur on campus or otherwise in connection with a University Education Program or Activity.

V. Reporting

A. General

All persons are encouraged to report Prohibited Conduct promptly, in order to ensure that all Parties affected by the alleged Prohibited Conduct are provided with support and connected with available resources. Prompt reporting is also critical for the preservation of physical and other evidence, which may be important in the University's administrative process and/or to prove criminal conduct or to obtain a civil or criminal

order of protection. In addition to reporting Prohibited Conduct, individuals may also speak with a confidential resource at any time, as detailed in Section X of this Policy.

B. Reporting to the Office of Civil Rights & Sexual Misconduct

Any person may report Prohibited Conduct at any time by contacting the Title IX Coordinator/Officer (Title IX Officer) or to the Office of Civil Rights & Sexual Misconduct (OCRSM), listed below, regardless of whether the reporting person is the Complainant.

Grace C. Karmiol, Esq., Angela Nastase, JD OCRSM Director and Title IX Coordinator/Officer

University of Maryland

Office of Civil Rights & Sexual Misconduct (OCRSM)

3101 Susquehanna Hall

4200 Lehigh Road

College Park, MD 20742-5025

E-mail: ~~gkarmiol@umd.edu~~ (~~<mailto:gkarmiol@umd.edu>~~) anastase@umd.edu †
titleixcoordinator@umd.edu (<mailto:titleixcoordinator@umd.edu>)

Telephone: 301-405-1142

Website: ~~<http://www.ocrsm.umd.edu/>~~ (<http://www.ocrsm.umd.edu/>)

An online reporting form is accessible on the OCRSM website 24 hours/7 days a week unless there is scheduled maintenance.

Prompt reporting to OCRSM maximizes the University's ability to obtain evidence, identify potential witnesses, and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting Prohibited Conduct, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing the University's ability to respond and take appropriate action.

The Title IX Officer is responsible for coordinating the University's efforts to comply with Title IX and this Policy. The Title IX Officer leads, coordinates, and oversees OCRSM, including OCRSM's efforts regarding compliance training, prevention programming, and educational programs. The Title IX Officer is available to meet with any student, employee, or third party to answer any questions about this Policy.

C. Reporting to a Responsible University Employee

Any person may also report Prohibited Conduct to a Responsible University Employee (RUE) including but not limited to the University of Maryland Police Department (UMPD). A Responsible University Employee, as defined in Section VII, must promptly notify the Title IX Officer of any report of Prohibited Conduct brought to their attention¹. The Title IX Officer works collaboratively with the reporting party or entity, making every effort to operate with discretion and maintain the privacy of the individuals involved. No employee (other than UMPD) is authorized to investigate or resolve reports of Prohibited Conduct without the involvement of the Title IX Officer.

D. Reporting to the Police

Prohibited Conduct, particularly Sexual Assault, may be a crime. The University will assist Complainants who wish to report Prohibited Conduct to law enforcement authorities, including UMPD 24 hours a day/7 days a week. Representatives of the OCRSM, the Office of Student Conduct (OSC), the Department of Resident Life's Office of Rights and Responsibilities (R&R), and Campus Advocates Respond and Educate (CARE) to Stop Violence Office in the University Health Center are available to assist students with reporting to UMPD.

UMPD are Responsible University Employees under this Policy and are required to notify the Title IX Officer of any report of Prohibited Conduct. UMPD will also assist Complainants in notifying other law enforcement authorities in other jurisdictions, as appropriate. To report to UMPD, please call 301-405-3333 or 911. Callers may also dial 301-405-3555 or via mobile phone #3333. Regardless of where the incident occurred **Call 911** in an emergency.

Because the standards for a violation of criminal law are different from the standards for a violation of this Policy, criminal investigations and proceedings are not determinative of whether a violation of this Policy has occurred. In other words, conduct may violate this Policy even if law

enforcement agencies or local prosecutors decline to prosecute. Complaints of Sexual Harassment and Other Sexual Misconduct and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off campus.

E. Clery Act Timely Warnings

If a report of Prohibited Conduct discloses a serious and ongoing threat to the University community, UMPD may issue a timely warning of the conduct in compliance with the Clery Act in the interest of the health and safety of the University community. This notice will not contain any personally identifying information related to the victim.

VI. Amnesty for Students Who Report Prohibited Conduct

A. The University recognizes that a student who is under the influence of alcohol and/or drugs when an incident of Prohibited Conduct occurs may be reluctant to report the Prohibited Conduct out of concern that the student may face disciplinary actions for engaging in prohibited alcohol or drug use. As such, a student who reports Prohibited Conduct to the University or law enforcement, or who participates in an investigation either as a Complainant or witness, will not face disciplinary action for violating University drug and alcohol policies.

B. This Amnesty provision applies only when the University determines that:

1. The drug/alcohol violation occurred during or near the time of the reported Prohibited Conduct;
2. The student acted in good faith in reporting or participating as a witness; and
3. The violation was not likely to place the health or safety of another individual at risk.

VII. Definitions

For purposes of this Policy and Procedures, the following definitions apply:

- A. **“Actual Knowledge”** means notice of Sexual Harassment or allegations of Sexual Harassment to the Title IX Officer or any University official who has authority to institute corrective measures on behalf of the University.
- B. **“Advisor”** means a person chosen by a Party to provide advice and consultation to that Party, in accordance with this Policy and Procedures. An Advisor may be an attorney or another individual. A Party’s Advisor also conducts cross-examination on behalf of that Party at a Hearing, if applicable, in accordance with this Policy and Procedures. An Advisor shall not be an active participant or speak on behalf of a Party except for the purpose of providing cross-examination at a Hearing. If a Party does not have an Advisor, the University will provide without fee or charge to that Party, an Advisor of the University’s choice, to conduct cross-examination on behalf of that Party; an Advisor appointed by the University acts in a confidential capacity on behalf of the Party and is not otherwise involved in the proceedings.
- C. **“Appellate Hearing Officer”** means an individual designated to review decisions concerning responsibility and sanctions, based on the Respondent’s status as a student, staff member, faculty member, or third party. Appellate Hearing Officers shall have had no previous involvement with the substance of the Formal Complaint.
- D. **“Complainant”** means the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.
- E. **“Consent”** means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give Consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that the person has Consent from the other party, and that the other party is capable of providing Consent.
1. Lack of protest or resistance is not Consent. Nor may silence, in and of itself, be interpreted as Consent.
 2. Previous relationships, including past sexual relationships, do not imply Consent to future sexual acts.

3. Consent to one form of sexual activity cannot automatically imply Consent to other forms of sexual activity.
4. Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is Consent or whether prior Consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
5. Consent cannot be obtained by use of physical force or Sexual Coercion.
6. An individual who is Incapacitated is unable to give Consent.

F. **“Day”** means a business weekday when the University is not closed.

G. **“Education Program or Activity”** means all of the University’s operations (including but not limited to employment); locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs; and also includes any building owned or controlled by a student organization that is officially recognized by the University.

H. **“Formal Complaint”** means a Document filed by a Complainant or signed by the Title IX Officer alleging Prohibited Conduct against a Respondent and requesting that the University proceed with the resolution process. A Formal Complaint may be filed with the Title IX Officer in person, by mail, by e-mail, or any additional method designated by the University in accordance with these Procedures.

1. **“Document filed by a Complainant”** means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Officer signs a Formal Complaint, the Title IX Officer is not a Complainant or otherwise a Party.

I. **“Hearing”** means a live, formal proceeding attended by the Parties in person or by video conference in which evidence is presented, witnesses are heard, and cross-examination occurs, prior to the Hearing Officer’s decision concerning responsibility and Sanctions, if applicable.

J. **“Hearing Officer”** means an individual designated to preside over the Hearing and has decision-making and sanctioning authority within the adjudication process.

K. **“Incapacitated”** means an individual’s decision-making ability is impaired such that the individual lacks the capacity to understand the “who, what, where, why, or how” of their sexual interaction. Incapacitation may result from sleep, unconsciousness, intermittent consciousness, physical restraint, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a temporary or permanent mental or developmental disability that impairs the ability to Consent to sexual contact. Alcohol or drug use is one of the primary causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or drunkenness. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

1. Making decisions about the potential consequences of sexual contact;
2. Appraising the nature of one’s own conduct;
3. Communicating Consent to sexual contact; or
4. Communicating unwillingness to engage in sexual contact.

L. **“Informal Resolution”** means a broad range of conflict resolution strategies, including, but not limited to, mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions and remedies.

M. **“Investigator”** means a professionally trained University staff member or third-party contractor designated to conduct an impartial, fair, and unbiased investigation into an alleged violation of this Policy.

N. **“No Contact Order”** means an official directive that serves as notice to an individual that the individual must not have verbal, electronic, written, or third-party communications with another individual.

O. **“Party”** means the Complainant or the Respondent (collectively, the “Parties”).

P. **“Preponderance of the Evidence”** means that it is more likely than not that a Policy violation has occurred.

Q. **“Remedies”** means actions designed to restore or preserve the Complainant’s equal access to the University’s Education Program or Activity. Remedies are similar to Supportive Measures but may be punitive and burden the Respondent.

R. **“Respondent”** means the individual alleged to have engaged in Prohibited Conduct under this Policy.

S. **“Responsible University Employee”** means all University administrators, supervisors, faculty members, graduate assistants, UMPD, athletic coaches, athletic trainers, resident assistants, and first responders, who are not confidential resources. Responsible University Employee is a term of art for purposes of this Policy only and for no other purposes.

T. **“Sanctions”** means disciplinary and other consequences imposed on a Respondent who is found to have violated this Policy.

U. **“Support Person”** means a person chosen by the Complainant or Respondent to provide emotional, logistical, or other kinds of assistance. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the Party in a way that does not disrupt or cause any delay. A Support Person shall not be an active participant or a witness, and the Parties must speak for themselves.

V. **“Supportive Measures”** mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent to restore or preserve equal access to Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or to deter Prohibited Conduct under this Policy.

VIII. Prohibited Conduct

This Policy prohibits Sexual Harassment, Other Sexual Misconduct, and Retaliation as set forth below. Prohibited Conduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Prohibited Conduct can be committed by any person, regardless of gender identity, and can occur between people of the same or different sex, sexual orientation, or gender expression.

A. **Sexual Harassment**² means conduct on the basis of sex that satisfies one or more of the following:

1. **Quid Pro Quo:** An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.
2. **Hostile Environment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s Education Program or Activity.
3. **Sexual Assault:** An offense classified as a sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are any sexual acts directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent (NonConsensual Sexual Penetration or Fondling); also, unlawful sexual intercourse (Incest or Statutory Rape).
 - a. **Non-Consensual Sexual Penetration:** Penetration, no matter how slight, of the genital or anal opening of the body of another person with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.³
 - b. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.

c. **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

d. **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.⁴

4. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the following factors:

a. The length of the relationship;

b. The type of relationship; and

c. The frequency of interaction between the persons involved in the relationship.

5. **Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Maryland, or by any other person against an adult or youth Complainant protected from that person's acts under the domestic or family violence laws of Maryland.

6. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

a. Fear for their own safety or the safety of others; or

b. Suffer substantial emotional distress.

B. **Other Sexual Misconduct** means the following conduct:

~~1. **Sexual Harassment** that occurred against a person outside of the United States or not within an Education Program or Activity, or otherwise does not fall under Title IX.~~

2. **1. Sexual Coercion:** The use of unreasonable pressure in an effort to compel another individual to initiate or continue sexual activity against the individual's will. A person's words or conduct are sufficient to constitute Sexual Coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Sexual Coercion includes but is not limited to intimidation, manipulation, express or implied threats of emotional or physical harm, and/or blackmail. Examples of Sexual Coercion include but are not limited to causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.

3. **2. Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

4. **3. Sexual Intimidation:** Threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.

5. **4. Attempted Sexual Assault:** An attempt to commit Sexual Assault.

6. **5. Other Sex-Based Offenses:** Unwelcome sexual advances, unwelcome requests for sexual favors, or other ~~conduct behavior~~ of a sexual ~~nature~~ or ~~gender~~-based on ~~sex nature~~ where:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, evaluation of academic work, or participation in a University-sponsored educational program or activity;

- b. Submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; ~~or~~
- c. Such conduct has the effect of unreasonably interfering with an individual's academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment; ~~or~~
- d. Based on the totality of the circumstances, the conduct, which need not be severe or pervasive, unreasonably creates a working environment for the worker that a reasonable person would perceive to be abusive or hostile.

C. **Retaliation** means intimidating, threatening, coercing, or discriminating against, or otherwise taking an adverse action against an individual for the purpose of interfering with any right or privilege secured by law or University policy relating to Prohibited Conduct, or because an individual has made a report, filed a complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Prohibited Conduct. Adverse actions include but are not limited to impeding an individual's academic advancement; terminating, refusing to hire, or refusing to promote an individual; or transferring or assigning an individual to a lesser position in terms of wages, hours, job classification, or job security. Retaliation includes retaliatory harassment. Adverse actions, including charges against an individual for violations of other University policies that do not involve sex discrimination or Prohibited Conduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of Prohibited Conduct, for the purpose of interfering with any right or privilege secured by law, constitutes Retaliation. However, charging an individual with a violation of other University policies for making a materially false statement in bad faith in the course of a proceeding does not constitute Retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith. The exercise of rights protected under the First Amendment does not constitute Retaliation. The University will keep confidential, to the extent permitted by the Family Educational Rights and Privacy Act (FERPA), the identity of any individual who has made a report of Prohibited Conduct.

IX. Sanctions

A. As further explained in the Procedures, Sanctions for Respondents determined to have violated this Policy include, but are not limited to, the following:

1. Students. Students found in violation of this Policy are subject to Sanctions such as dismissal from the University (suspension or expulsion), removal from University housing, disciplinary probation, and other sanctions such as community service and mandatory and continuing participation in training on Prohibited Conduct and education programming, depending on the circumstances and nature of the violation.
2. Employees. Employees found in violation of this Policy are subject to Sanctions ranging from a written reprimand up to and including separation from employment, depending on the circumstances and nature of the violation.

X. Confidential Resources

Confidential resources on and off campus assist Parties in navigating potential advocacy, therapy, counseling, and emotional support services. If a person desires to keep an incident of Prohibited Conduct confidential, the person should speak with confidential resources.

Disclosures or reports made to individuals or entities other than confidential resources may not be confidential. For instance, should a member of the University community discuss an incident of Prohibited Conduct with a University administrator, supervisor, faculty member, graduate assistant, UMPD, athletic coach, athletic trainer, resident assistant, or first responder who is not a confidential resource, those persons are deemed Responsible University Employees and, as such, are obligated pursuant to this Policy to report the Prohibited Conduct to the Title IX Officer.

Unless there is a lawful basis for disclosure, such as reported child abuse or an imminent risk to health or safety, confidentiality applies when persons seek services from the following resources:

A. University Confidential Resources

Campus Advocates Respond and Educate (CARE) to Stop Violence

University Health Center

3983 Campus Drive
College Park, MD 20742

Telephone: 301-314-2222

24/7 Crisis Line (call) 301-741-3442

Website: www.health.umd.edu/care(www.health.umd.edu/care)

Email: uhc-care@umd.edu(<mailto:uhc-care@umd.edu>)

This service is a free and confidential resource that provides support, assistance, and advocacy to any member of the University community impacted by Prohibited Conduct. Its mission is to respond to incidents of Sexual Harassment and Other Sexual Misconduct.

Faculty Staff Assistance Program (FSAP)

University Health Center

3983 Campus Drive

College Park, MD 20742

Telephone: 301-314-8170 or 301-314-8099

Website: health.umd.edu/fsap |(health.umd.edu/fsap)

Email: ~~Tom Ruggieri~~-Tonya Philips tphilli6@umd.edu~~ruggieri@umd.edu~~(<mailto:ruggieri@umd.edu>) or ~~Joan Bellsey~~-Tania Debarros tdebarro@umd.edu ~~jbellesey@umd.edu~~(<mailto:jbellesey@umd.edu>)

This program is a confidential assessment, referral, and counseling service staffed by trained mental health professionals. FSAP is available to all University employees and their family members at no charge. Faculty and staff may consult with a counselor for many different reasons, including for issues relating to Prohibited Conduct.

University Counseling Center

1101 Shoemaker Building

4281 Chapel Lane

College Park, MD 20742

Telephone: 301-314-7651

After Hours Crisis Support: 301-314-7651

Website: www.counseling.umd.edu(www.counseling.umd.edu)

The University Counseling Center provides comprehensive psychological and counseling services to meet the mental health and developmental needs of students and others in the University community. Staffed by counseling and clinical psychologists, the Counseling Center offers a variety of services to help students, faculty, staff, and the community deal with issues concerning them.

University Health Center (UHC)

Medical & Behavioral Health

3983 Campus Drive

College Park, MD 20742

Telephone: 301-314-8106

Website: <https://health.umd.edu/behavioral-health>(<https://health.umd.edu/behavioral-health>)

The Mental Health Service is staffed by psychiatrists and licensed clinical social workers and offers confidential services including short-term psychotherapy, medication evaluations, crisis intervention, and group psychotherapy.

Campus Chaplains

Telephone: 301-405-8450 or 301-314-9866

Website: http://thestamp.umd.edu/memorial_chapel/chaplains(http://thestamp.umd.edu/memorial_chapel/chaplains)

The Campus Chaplains represent faith communities and work collectively to serve the spiritual needs of all members of the University community. Contact information for Chaplains is listed on the website referenced above.

B. Confidential Resources Off-Campus include, but are not limited to:

**Domestic Violence and Sexual Assault Center at UM ~~Prince George's Hospital~~
Capital Region Medical Center**

901 Harry S. Truman Drive North
Largo, MD 20774

~~3001 Hospital Drive, Cheverly, MD 20785~~

Help Hotline: 240-677-2337 ~~301-618-3154~~ – 24-hour Hotline or 24 hours/7 days a week

Website: <https://www.umms.org/capital/health-services/domestic-violence-sexual-assault>

~~<https://www.umms.org/capital/health-services/domestic-violence-sexualassault>(<https://www.umms.org/capital/health-services/domestic-violence-sexualassault>)~~

Persons who experience sexual assault can access a Sexual Assault Forensic Exam (SAFE) within 72 hours of an assault. Each Maryland county has a hospital that provides SAFE exams. A SAFE exam is available at UM [Capital Region Medical Prince George's Hospital Center](#). To find a SAFE provider in other counties call 1-800-656-4653. SAFE exams and attention to medical needs are available without having to reveal a person's identity to the police.

Maryland Coalition Against Sexual Assault (MCASA)

Statewide Sexual Assault Information and Referral Helpline: 1-800-983-RAPE (4673)

Website: <https://mcasa.org/>(<https://mcasa.org/>)

MCASA is a statewide coalition of 17 rape crisis and recovery centers that serve all Maryland jurisdictions. MCASA works to help prevent Sexual Assault, advocate for accessible, compassionate care for survivors of Sexual Violence, and works to hold offenders accountable.

Maryland Network Against Domestic Violence (MNADV)

4601 Presidents Drive, Suite 300

Lanham, MD 20706

Statewide Helpline: 1-800-MD-HELPS (43577) (Monday-Friday, 9:00 a.m. – 5:00 p.m.)

MNADV Office: 301-429-3601

Email: info@mnadv.org(<mailto:info@mnadv.org>)

Website: <https://mnadv.org/>(<https://mnadv.org/>)

The Maryland Network Against Domestic Violence (MNADV or Network) is the state Domestic Violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence. The Network accomplishes this goal by providing education, training resources, and advocacy to advance victim safety and abuser accountability.

RAINN National Sexual Assault Crisis Hotline

Help Hotline: 800-656-HOPE (4673) – 24-hour Hotline or 24 hours/7 days a week

Website: <https://www.rainn.org/>(<https://www.rainn.org/>)

RAINN (Rape, Abuse & Incest National Network) is the nation's largest anti-sexual violence organization.

XI. Co-Occurring Criminal Action

Proceeding with a University resolution of Prohibited Conduct under this Policy and Procedures is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a report or Formal Complaint of Prohibited Conduct under this Policy. The University is required to conduct an investigation in a timely manner, which means, in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing Supportive Measures, and taking appropriate action.

However, at the request of law enforcement, the Title IX Officer may defer its fact gathering until the initial stages of a criminal investigation are complete. If such a request is made by UMPD, then UMPD will submit the request in writing and the Complainant will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by UMPD, Prince George's County Police, or the local prosecutor's office, the Title IX Officer will work collaboratively and supportively with each respective agency within the parameters outlined above. The Title IX Officer will communicate any necessary delays in the University's investigative process to both parties in the event of a deferral.

XII. Rights of Parties

Parties will be treated with dignity, respect, and sensitivity by University officials during all phases of the process. The process for investigating and resolving reports and complaints must be free from conflict of interest or bias. Any individual designated by the University as a Title IX Officer,

Investigator, Hearing Officer, Appellate Hearing Officer, or Informal Resolution facilitator must not have a conflict of interest or bias for or against Complainants or Respondents, generally, or for or against an individual Complainant or Respondent. To raise any concern involving bias or conflict of interest by the Title IX Officer, the Parties should contact the Vice President for Diversity and Inclusion, Georgina Dodge, Ph.D., via email at gdodge1@umd.edu upon discovery of the bias or conflict of interest. Concerns of bias or a potential conflict of interest by any other individual involved in the resolution process should be raised with the Title IX Officer upon discovery. The accompanying Procedures provide further guidance on concerns related to conflicts of interest and bias.

A. The accompanying Procedures are designed to allow for a fair and impartial investigation, as well as prompt and equitable proceedings and resolutions that provide an opportunity for Parties to be heard.

B. Parties will be given timely written notice of:

1. The reported violation, including the date, time and location, if known, of the alleged violation, and the range of potential Sanctions associated with the alleged violation;
2. Their rights and responsibilities under this Policy and information regarding other civil and criminal options;
3. The date, time, location, participants, and purpose of each Hearing, meeting, or interview that the Party is invited or expected to attend, with sufficient time for the Party to prepare to participate;
4. The final determination made by the Hearing Officer regarding whether a Policy violation occurred and the basis for the determination;
5. Any Sanction imposed, as required by law; and
6. The rights to appeal and a description of the appeal process.

C. Parties will be entitled to participate in the investigation and adjudication of the Formal Complaint in accordance with the Procedures. Parties will be provided with:

1. Access to the case file and evidence regarding the incident obtained by the University during the investigation or considered by the Hearing Officer, with personally identifiable or other information redacted as required by applicable law;
2. An opportunity to be heard through the process;
3. An opportunity to offer testimony at a Hearing;
4. An opportunity to submit evidence, witness lists, and suggest specific questions to be posed to the other Party during the investigation, or to the other Party at a Hearing through the Party's Advisor;
5. An opportunity to review testimony electronically or in a way in which the Parties are not required to be in the physical presence of one another;
6. An opportunity to review and provide written responses to draft and final investigation reports;
7. An opportunity to participate at a Hearing without being required to be in the physical presence of the other Party;
8. An opportunity to appeal a determination and/or Sanction; and
9. Notice, presented in an appropriate and sensitive format, before the start of the resolution process, of:
 - a. The Party's right to the assistance of an Advisor, including an attorney or advocate;
 - b. The legal service organizations and referral services available to the Party; and

c. The Party's right to have a Support Person of the Party's choice at any Hearing, meeting, or interview.

XIII. False Statements

Knowingly making false statements or knowingly submitting false information under this Policy and Procedures is prohibited.

XIV. Legal Representation Fund for Title IX Proceedings (Students Only)

Student Complainants and Respondents may elect to retain an attorney to serve as their Advisor, though assistance by an attorney is not required. The Maryland Higher Education Commission (MHEC) has developed resources to assist current or former students in retaining an attorney to serve as an Advisor at no or low cost to the student. MHEC provides a list of licensed attorneys who have indicated that they may represent students in Title IX proceedings on a pro bono basis or for reduced legal fees. A student's attorney may seek reimbursement of certain legal costs and fees from MHEC's Legal Representation Fund for Title IX Proceedings, subject to the availability of funding. More information is available on MHEC's website.

XV. Emergency Removals

A. An emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which might arise out of reported Prohibited Conduct. The University may remove a Respondent from a University Education Program or Activity on an emergency basis when the University:

1. Undertakes an individualized safety and risk analysis;
2. Concludes that ~~there is~~ an immediate threat to the physical health or safety of any student or other individual arising from the alleged Prohibited Conduct ~~justifies removal~~; and
3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

B. Nothing herein prohibits the University from implementing Supportive Measures in accordance with this Policy and Procedures.

C. Student Respondents

A student Respondent will be offered an opportunity to meet with the Director of Student Conduct or the Title IX Officer or designee to review the reliability of the information and challenge the decision within five (5) Days from the effective date of the emergency removal.

The University may impose an interim disciplinary suspension on a student Respondent in accordance with the *Code of Student Conduct* for reasons not arising from the alleged Prohibited Conduct.

D. Other Respondents

Other Respondents will be offered an opportunity to meet with the Title IX Officer or designee to review the reliability of the information and challenge the decision within five (5) Days from the effective date of the emergency removal.

For staff and faculty Respondents, the University in consultation with the Title IX Officer, UMPD, an employee's supervisor and applicable campus or departmental Human Resource office may implement emergency removals from the University's Education Program or Activity, such as changing a Respondent's work responsibilities or work location or placing the Respondent on leave during the resolution process, following the process described above. The University ~~also~~ re-tains the authority to implement Supportive Measures as appropriate.

XVI. Consensual Relationships and Professional Conduct

Sexual relationships that occur in the context of educational or employment supervision and evaluation present potential conflicts of interest. Relationships in which one party maintains a supervisory or evaluative responsibility over the other also reflect an imbalance of power, leading to doubt as to whether such relationships are truly consensual.

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom the person has supervisory and/or evaluative responsibilities *must inform their supervisor(s)* of the relationship(s). Supervisory or evaluative responsibilities may be reassigned, as appropriate. ~~While no relationships are expressly prohibited by this Policy,~~ Failure to self-report such relationships in a timely manner, as required by this Policy, may result in disciplinary action. [Such relationships may also be prohibited by or otherwise subject to II-3.10\(D\) University of Maryland Policy on Consensual Relationship Between Faculty and Students.](#)

XVII. Training

A. Prevention and Awareness Education

The University will develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Prohibited Conduct. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Harassment, definitions of consent and Prohibited Conduct, the University's Procedures, bystander intervention, risk reduction, and the consequences of engaging in Prohibited Conduct. These educational initiatives shall be for all incoming students and new employees. The University will also develop ongoing prevention and awareness campaigns for all students and employees addressing, at a minimum, the same information. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

B. Training for Personnel Involved in Response and Resolution

All persons involved in responding to or resolving Prohibited Conduct reports will participate in training in handling complaints of Prohibited Conduct under this Policy. The University will make these training materials publicly available on its website.

The University will ensure that Title IX Officers, Investigators, Hearing Officers, Appellate Hearing Officers, and any person who facilitates an Informal Resolution process, receive training on the following: the definition of Prohibited Conduct; the scope of the University's Education Program or Activity; how to conduct a resolution process including investigation, hearings, appeals, and Informal Resolution, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; technology to be used at a live hearing; and issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Any materials used to train Investigators will not rely on sex stereotypes and will promote impartial resolutions of Formal Complaints under this Policy.

XVIII. Records Retention

A. The University will maintain for a minimum of seven (7) years, records of the following:

1. **Investigations and Determinations.** Each Sexual Harassment investigation, including any determination regarding responsibility;
2. **Recordings and Transcripts.** Any audio or audiovisual recording or transcript required;
3. **Sanctions.** Any Sanctions imposed on the Respondent;
4. **Remedies.** Any Remedies provided to the Complainant designed to restore or preserve equal access to the Education Program or Activity;
5. **Appeals.** Any appeal and the result thereof;
6. **Informal Resolutions.** Any Informal Resolution and the result therefrom;
7. **Training Materials.** All materials used to train Title IX Officers, Investigators, Hearing Officers, and any person who facilitates an Informal Resolution process; and
8. **Supportive Measures.** Any Supportive Measures, taken in response to a report or Formal Complaint of Prohibited Conduct. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its Education Program or Activity. If the University does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing

additional explanations or detailing additional measures taken.

XIX. External Government Agencies

Employee complaints relating to Prohibited Conduct may be directed to:

Equal Employment Opportunity Commission (EEOC)

GH Fallon Federal Building 31 Hopkins Plaza, Suite 1432

Baltimore, MD 21201

Telephone: 1-800-669-4000

Fax: ~~443-992-7880~~ ~~410-209-2221~~

TTY: 1-800-669-6820

Website: <https://www.eeoc.gov/> ~~<https://egov.eeoc.gov/eas/>~~ ~~<https://egov.eeoc.gov/eas/>~~

Maryland Commission on Civil Rights (MCCR)

William Donald Schaefer Tower

6 Saint Paul Street, Suite 900

~~Ninth Floor~~ Baltimore, MD

21202-1631

Telephone: 410-767-8600

Fax: 410-333-1841

TTY: 410-333-1737

Website: <http://mccr.maryland.gov/> ~~<http://mccr.maryland.gov/>~~

E-mail: mccr@maryland.gov ~~<mailto:mccr@maryland.gov>~~

Student or employee complaints relating to Prohibited Conduct may be directed to:

U.S. Department of Education, Office for Civil Rights (OCR)

~~U.S. Department of Education~~

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Telephone: 215-656-8541

Fax: 215-656-8605

TDD: 800-877-8339

Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

~~<http://www2.ed.gov/about/offices/list/ocr/does/tix-dis.html>~~ ~~<http://www2.ed.gov/about/offices/list/ocr/does/tix-dis.html>~~

E-mail: OCR.Philadelphia@ed.gov ~~<mailto:OCR.Philadelphia@ed.gov>~~

UNIVERSITY OF MARYLAND PROCEDURES FOR INVESTIGATING AND RESOLVING ALLEGATIONS OF SEXUAL HARASSMENT AND OTHER SEXUAL MISCONDUCT

I. Applicability

These Procedures are part of the *VI-1.60(A) University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct* and are the exclusive procedures that govern the handling of all reports or complaints of Prohibited Conduct under this Policy. These Procedures apply to all members of the University community, including students, faculty, and staff. They also apply to contractors and other third parties who are engaged in any University Education Program or Activity, or who are otherwise interacting with the University, including but not limited to volunteers, vendors, guests, and visitors.

Processes for handling reports and complaints of Prohibited Conduct may recognize the various roles the Parties play at the institution for the purposes of considering Supportive Measures, Remedies, Sanctions and Disciplinary Actions, and appeal procedures. The Office of Civil Rights & Sexual Misconduct (OCRSM) will assess the role of the Parties on a case by case basis for this purpose. In cases where the Parties exist in multiple roles at the institution, the process may impact them in any and all roles in which they operate, for the purposes of determining appropriate Supportive Measures, Remedies, and Sanctions.

II. Anticipated Timelines

The University's goals are to provide equal educational opportunities, promote campus safety, and remedy the effects of Prohibited Conduct. Good faith efforts will be made to complete Informal Resolutions, investigations and the adjudication process, if any, in a prompt, fair, and impartial manner. The OCRSM will conduct any investigation as promptly as possible under the circumstances, taking into account the complexity of the allegations, the complexity of the investigation and resolution, the severity and extent of the alleged misconduct, the number and availability of witnesses, the University's calendar, and/or other unforeseen circumstances. The University seeks to take appropriate action, including investigation and resolution of Formal Complaints, generally within one hundred twenty (120) Days from when the Formal Complaint is filed, by balancing principles of thoroughness and fundamental fairness. An extension of the timeframe may be necessary or granted for good cause in order to ensure the integrity and thoroughness of the investigation.

The Title IX Officer or designee may extend the timeframes set forth in this Policy and Procedures for good cause, with written notice of the extension to both Parties and the reason(s) for the delay. Written requests for delays by Parties may be considered. Factors considered in granting or denying an extension may include considerations such as, but not limited to, the following: the absence of a Party, a Party's Advisor, or a witness and/or the need for language assistance or accommodations of disabilities.

III. Right to Support Person and Advisor

A Party may be accompanied at any meeting held by the Title IX Officer or designee under these Procedures by up to two (2) people, including one (1) Support Person, and/or one (1) Advisor. When a Party wishes to be accompanied by a Support Person or Advisor to a meeting, the Party must notify the OCRSM or the Title IX Officer or designee in advance. Parties may select a Support Person or Advisor at any point before the conclusion of the resolution process. If a Party does not have an Advisor prior to a Hearing, the University will provide an Advisor of the University's choice to conduct cross-examination on behalf of that Party. In such cases, the Party has the right to request a change in their University-provided Advisor; the Title IX Officer or designee will determine whether such a request can be accommodated given the constraints of the Hearing process.

Throughout the process, the Title IX Officer or designee will communicate and correspond directly with the Parties, not indirectly through a Support Person or Advisor.

Prior to meetings and hearings, all Support Persons and Advisors must review non-Party participation requirements, which define their respective roles, appropriate decorum, and confidentiality obligations relative to the proceedings. These requirements may be viewed on the OCRSM website and may be obtained from the Title IX Officer or designee. Parties must ensure that Support Persons and Advisors follow these non-Party participation requirements.

In addition to the right to a Support Person and an Advisor, if the OCRSM or the Title IX Officer determines that a Party needs language assistance in order to fully engage in the process, accommodations will be made to allow for language assistance throughout the investigation and resolution process. Other similar accommodations including accommodations provided or arranged through the University's Accessibility and Disability Service (ADS) may be requested and considered throughout the process.

IV. Notification of Meetings, Interviews, and Hearings

Throughout the resolution process, the University will provide Parties and witnesses with written notification of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings to which they are invited or expected to participate. The written notification will be provided with sufficient time for the individual to prepare.

V. Report Intake and Formal Complaint

A. Receipt of Report of Prohibited Conduct

Upon receipt of a report alleging Prohibited Conduct from a Complainant, OCRSM will provide written acknowledgement of receipt of the report to the Complainant, if known, and include: a copy of this Policy and Procedures, options under the resolution process, and the Notice of Rights and Responsibilities.

The Complainant will be informed of available community and campus resources and services; available Supportive Measures as specified in Section V.C of these Procedures; their right to a Support Person and the Support Person's role; their right to an Advisor and the Advisor's role; their right to file a report with law enforcement; and the University's prohibition against Retaliation.

If the report is received from someone who is not the Complainant or the Respondent, OCRSM will provide written acknowledgement of receipt of the report and take appropriate action as the information provided allows.

Receipt of a report alleging Prohibited Conduct shall not constitute the filing of a Formal Complaint under this Policy.

As explained more fully below, the Complainant may ask OCRSM to take no further action beyond offering Supportive Measures, or they may file a Formal Complaint. Requests to take no further action will be assessed by the Title IX Officer or designee in alignment with Section V.E below.

B. Intake and Initial Assessment

OCRSM will contact the Complainant to conduct an intake and initial assessment, which will determine whether the reported conduct, if substantiated, would constitute a potential violation of this Policy. The Complainant can choose whether or not to participate with the intake and initial assessment process. If the Complainant opts not to participate, OCRSM may be limited in its ability to assess the report. The Complainant will have an opportunity to ask questions about options and resources and seek additional information. OCRSM will attempt to gather information that will enable OCRSM, in consultation with other appropriate University offices, to:

1. Assess a Complainant's request for Supportive Measures;
2. Assess the nature and circumstances reported;
3. Assess jurisdictional concerns regarding each Party;
4. Assess the safety of the Complainant and of the University community;
5. Implement any appropriate Supportive Measures;
6. Assess for pattern evidence or other similar conduct by the Respondent as relevant to the safety assessment;
7. Assess the Complainant's expressed preference regarding resolution, including any request that no further action be taken;
8. Assess any request by the Complainant for confidentiality or anonymity; and
9. Assess the reported conduct for possible referral to UMPD for a timely warning under the Clery Act.

When the initial assessment determines the alleged conduct would not constitute a potential violation under this Policy if substantiated, the Title IX Officer may try to resolve an issue without the filing of a Formal Complaint. The alleged conduct may also violate other University policies, and the report may be referred to another University process and/or office, including but not limited to the following: *VI-1.00(B) University of Maryland Non-Discrimination Policy and Procedures, V-1.00(B) University of Maryland Code of Student Conduct*, the Office of Student Conduct, University Human Resources, and/or the Office of Faculty Affairs, as appropriate.

C. Supportive Measures

OCRSM, in consultation with other appropriate University officials, facilitates Supportive Measures, which are available to the Parties upon receiving a report or Formal Complaint alleging Prohibited Conduct. OCRSM will consider the Parties' wishes with respect to planning and implementing the Supportive Measures. OCRSM will maintain the reasonable confidentiality of the Supportive Measures, provided that this does not impair the ability to provide the Supportive Measures. OCRSM will act to ensure as minimal an academic and employment impact on the Parties as possible and implement Supportive Measures in a way that does not unreasonably burden either Party.

Supportive Measures include, but are not limited to:

1. Academic Accommodations
 - a. Assistance in transferring to another section of a lecture or laboratory

- b. Assistance in arranging for incompletes
- c. Assistance with leave of absence
- d. Assistance with withdrawal from coursework
- e. Assistance with withdrawal from campus
- f. Assistance with communicating with faculty
- g. Rearranging class schedules
- h. Re-scheduling exams
- i. Extensions of academic deadlines
- j. Re-taking a course
- k. Dropping a course
- l. Academic support such as tutoring or other course/program related adjustments
- m. Facilitating adjustments so complainants and respondents do not share same classes

2. Housing Accommodations

- a. Facilitating changes in on-campus housing location to alternate housing
- b. Assistance in exploring alternative housing off-campus

3. Employment Accommodations

- a. Arranging for alternate University employment
- b. Arranging different work shifts temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management; and
- c. Extensions of work deadlines.

4. Care and Support

- a. Facilitating assistance for an individual to obtain medical, healthcare, advocacy, and therapy services;
- b. Referral to the Faculty Staff Assistance Program (FSAP);
- c. Referral to Campus Advocates Respond and Educate (CARE) to Stop Violence; and
- d. Referral to community-based providers.

5. Community Education

- a. Education to the community or community subgroup(s);
- b. Training; and

c. Bystander Intervention Program

6. Safety

- a. Providing campus safety escorts;
- b. Providing transportation accommodations;
- c. Increased security and monitoring of certain areas of the campus;
- d. Transportation and parking arrangements;
- e. Assistance in making a report to law enforcement or obtaining a protective order;
- f. Safety planning, and
- g. Assisting a person in requesting that directory information be removed from public sources

7. University Referrals

- a. Referral to Visa and Immigration assistance
- b. Assistance in arranging appointments with University resources
- c. Assistance with exploring changes in class and extra-curricular schedules
- d. Referral to student financial aid counseling

8. Other

- a. No Contact Order; and
- b. Denial of Access to campus grounds and/or buildings

OCRSM will promptly inform the Respondent of any Supportive Measures that will directly impact the Respondent.

The Title IX Officer or designee retains discretion to provide and/or modify any Supportive Measures based on all available information. Supportive Measures will remain in effect as necessary.

D. Filing of a Formal Complaint

A Formal Complaint alleging Prohibited Conduct against a Respondent may be filed with the Title IX Officer in person, by mail, or by electronic mail, by using the contact information listed in Section IV of the Policy.

Should the Complainant decide to file a Formal Complaint, the Title IX Officer will review the Formal Complaint and determine whether it should be dismissed or move into the resolution process (see Section III.F of these Procedures).

E. Special Considerations: Requests for Anonymity and to Not Proceed

If a Complainant does not wish to disclose their personally identifiable information (i.e. wishes to remain anonymous) and/or does not wish to file a Formal Complaint, the Complainant may make such a request to the Title IX Officer or designee. Regardless of their choice, the Title IX Officer or designee will still offer Supportive Measures to the Complainant as appropriate. The Complainant retains the ability to file a Formal Complaint at any time.

The Title IX Officer has ultimate discretion over whether the University proceeds, and the Title IX Officer may sign a Formal Complaint to initiate the resolution process when appropriate. The Title IX Officer's decision to sign a Formal Complaint will be based on whether:

1. An investigation is needed to comply with legal anti-discrimination requirements or is otherwise the most appropriate and effective response;
2. The effect that non-participation by the Complainant may have on the availability of evidence and the ability to pursue the resolution process fairly and effectively; and/or
3. A violence risk assessment shows a compelling risk to health and/or safety which requires the University to pursue formal action to protect the University community. A compelling risk to health and/or safety may result from any combination of the following:
 - a. Evidence of patterns of misconduct;
 - b. Predatory conduct, threats, abuse of minors;
 - c. Allegations that the Prohibited Conduct was committed by multiple persons; and/or
 - d. Use of weapons and/or violence.

When the Title IX Officer signs the Formal Complaint, the Title IX Officer does not become the Complainant and is not otherwise a Party.

Overall, the University's ability to remedy and respond to the Formal Complaint may be limited if the Complainant does not want the University to proceed with the resolution process. The goal is to provide the Complainant with the opportunity to file a Formal Complaint and participate while balancing the University's obligation to protect its community.

F. Designation of Prohibited Conduct and Dismissal of Formal Complaint

As indicated above in Section V.B of this Policy, the Title IX Officer or designee will gather information to assess whether the reported conduct, if substantiated, would constitute a potential violation of the Policy. Title IX requires the University to determine whether the reported conduct is designated as Title IX-based Prohibited Conduct. A decision not to designate the alleged conduct as Title IX-based Prohibited Conduct constitutes a mandatory dismissal of the case for Title IX purposes⁵. However, this dismissal does not prevent the University from investigating and resolving the Formal Complaint through these Procedures if the reported conduct would meet the definition of ~~Other Sexual Misconduct or Retaliation in Sections VIII.B and VIII.C of this Policy~~, Prohibited Conduct and fall within the University's jurisdiction. if substantiated. The University will investigate and adjudicate these non-Title IX-based forms of Prohibited Conduct using these same Procedures. Dismissal under this Policy and Procedures also does not preclude a referral to another University process and/or office as indicated in Section V.B, as may be appropriate in cases where the reported conduct may violate other University policies.

Upon receipt of a Formal Complaint, the Title IX Officer or designee will promptly send simultaneously to both Parties the *Written Notice of Formal Complaint* described in Section VI.C.3 of these Procedures, and a *Written Notice of Designation* of:

1. The decision about whether to designate the alleged conduct as Title IX-based Prohibited Conduct, and the reasons for this decision; and
2. The decision to proceed with the resolution process or to dismiss the Formal Complaint as described below; and
3. ~~The Parties' rights to appeal the designation and/or dismissal decision.~~

Title IX-based Prohibited Conduct

The Title IX Officer or designee *must* designate the alleged conduct as Title IX-based Prohibited Conduct if:

1. The alleged conduct would constitute Sexual Harassment within an Education Program or Activity against a person in the United States

if substantiated; and

2. The Complainant is participating or attempting to participate in an Education Program or Activity at the time the Complainant files a Formal Complaint or when the Title IX Officer files a Formal Complaint because the alleged conduct meets the above definition.

Mandatory Dismissal

The Title IX Officer or designee **must** dismiss a Formal Complaint or any allegations therein if at any time during the Resolution Processes it is determined that:

1. The conduct alleged in the Formal Complaint, if substantiated, would not constitute Prohibited Conduct; or
2. The allegations in the Formal Complaint do not fall within the University's jurisdiction.

Permissive Dismissal

The Title IX Officer or designee **may** dismiss a Formal Complaint or any allegations therein if at any time during the Resolution Processes:

1. A Complainant notifies the Title IX Officer or designee in writing that the Complainant requests to withdraw the Formal Complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Respondent is not a member of the campus community or if they withdraw or leave during the process, the Title IX Officer or designee will determine whether the case should be dismissed or whether it should continue to be pursued in the absence of the Respondent.

Decisions on whether to dismiss a case in these instances will be considered carefully. The Title IX Officer or designee will assess the effect that non-participation by the Respondent may have on the availability of evidence and the ability to pursue the resolution process fairly and effectively. If the Title IX Officer or designee determines that the case should be dismissed, the Title IX Officer or designee will still offer Supportive Measures to the Complainant as appropriate.

G. Appeal of Designation and/or Dismissal

Either Party may appeal the *Written Notice of Designation* if there is a decision to: (1) dismiss the Formal Complaint; or (2) not designate the alleged conduct as Title IX-based Prohibited Conduct. The bases for appeal are limited to procedural irregularity, new evidence, and conflict of interest as explained in Section VI.D.9.a of these Procedures. The process for the appeal is set forth in Section VI.D.9.c of these Procedures.

VI. Resolution Processes

A. Consolidation of Complaints

At the discretion of the Title IX Officer or designee, multiple reports may be ~~consolidated into one Informal Resolution and/or investigation during the Resolution Processes, including into a single investigation and/or hearing if the information related to each incident is relevant in reaching a resolution~~ allegations arise out of the same facts or circumstances. Matters may be consolidated where the matters involve multiple Complainants, multiple Respondents, or ~~related facts and circumstances involving multiple reports between~~ the same Parties., including those arising out of the same or different events(s).

B. Informal Resolution Process

Informal Resolution may serve to address the alleged Prohibited Conduct as an alternative to proceeding to an investigation and Hearing. Informal Resolution can encompass a variety of approaches agreed to by the Parties including, but not limited to, mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions and Remedies facilitated by the Title IX Officer or designee.

The purpose of Informal Resolution is to take appropriate action by imposing individual and community interventions and remedies designed to

maximize the equal access to the Education Program or Activity, as well as to address the effects of the conduct on the larger University community.

1. Request for Informal Resolution

Either Party may request Informal Resolution, including their preferred approach of reaching a resolution, such as mediation, Respondent acknowledgement of responsibility, and/or negotiated interventions and Remedies. Both Parties and the Title IX Officer or designee must agree to the process in writing. Either Party may terminate an ongoing Informal Resolution at any time prior to reaching an agreement.

The Title IX Officer or designee has the discretion to determine whether a Formal Complaint is appropriate for Informal Resolution and which resolution approach is best utilized given the specifics of the Formal Complaint. The Title IX Officer or designee retains discretion to terminate an ongoing Informal Resolution process at any time, at which point the Title IX Officer or designee will determine appropriate next steps. The Title IX Officer or designee will inform both Parties simultaneously in writing of the reason(s) for terminating an Informal Resolution process.

2. Informal Resolution Not Permitted

Although the Title IX Officer or designee retains discretion to determine whether a Formal Complaint is appropriate for Informal Resolution in other cases, Informal Resolution is not permitted under the following circumstances:

- a. Formal Complaints by a student alleging Sexual Harassment against an employee (staff or faculty); or
- b. Formal Complaints alleging Sexual Assault or Sexual Coercion.

3. Informal Resolution Permitted

When Informal Resolution is utilized, the process is voluntary and is not a requirement or condition of continued enrollment or employment at the University.

In such case, Parties will receive a written *Notice of Informal Resolution* containing the following:

- a. Summary of the allegations;
- b. Notice that neither Party is required to accept responsibility for the alleged Prohibited Conduct, unless a Respondent chooses to do so;
- c. Notice that there is no finding of a Policy violation or Sanction unless agreed to by the Respondent;
- d. Notice that agreement to Informal Resolution is not a waiver of right to proceed with an investigation and Hearing;
- e. Notice that until an Informal Resolution agreement is finalized, the Parties may, at any time, opt out of Informal Resolution, at which point the Formal Complaint would proceed or resume to investigation and Hearing, as appropriate;
- f. Notice of any potential consequences resulting from participating in the Informal Resolution process, including whether records will be maintained or could be shared;
- g. Notice that the reasonable confidentiality restrictions of the Informal Resolution process mean that information shared or obtained during this process cannot be used in an investigation and adjudication under these Procedures, if Informal Resolution fails;
- h. Notice that if an Informal Resolution agreement is finalized and implemented, it precludes the Parties from resuming investigation and adjudication of a Formal Complaint arising from the same allegations; and
- i. Notice that the results of Informal Resolution are not eligible for appeal.

4. Mediation and Other Informal Resolution

Informal Resolution, including mediation, must be conducted by a trained facilitator who guides the Parties in a confidential dialogue to reach an effective resolution, if possible. Information shared or obtained during this process cannot be used in an investigation and adjudication under these Procedures, if Informal Resolution fails. The trained facilitator may be internal or external to the University depending on the needs of the specific case as determined by the Title IX Officer or designee. Sanctions are not possible as a result of Informal Resolution unless the Parties agree to accept Sanctions and/or appropriate Remedies.

5. Negotiated Informal Resolution Interventions and Remedies

If agreed to by the Parties and determined appropriate by the Title IX Officer or designee, the following Informal Resolution interventions and Remedies may be utilized, including but not limited to:

- a. Increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- b. Targeted or broad-based educational programming or training for relevant individuals or groups;
- c. Academic and/or housing modifications for either Party;
- d. Workplace modifications for either Party;
- e. Completion of projects, programs, or requirements designed to help the Respondent manage behavior, refrain from engaging in Prohibited Conduct, and understand why the Prohibited Conduct is prohibited;
- f. Compliance with a No Contact Order;
- g. Compliance with a Denial of Access;
- h. Completion of community service hours over a specific period of time; and
- i. Separation from the University.

The Title IX Officer or designee will work with the Offices of Student Conduct, Human Resources, and/or Provost/Faculty Affairs as needed to facilitate such negotiated interventions and Remedies.

6. Completion of Informal Resolution

When an Informal Resolution agreement is reached and the terms of the agreement are implemented, the matter is resolved and closed. Appeals by either Party are not permitted. The Title IX Officer or designee is responsible for ensuring compliance with the agreement.

In cases where an agreement is not reached and the Title IX Officer or designee determines that further action is necessary, or if either Party fails to comply with the terms of the Informal Resolution, the matter may be referred for an investigation and adjudication under these Procedures, as appropriate.

The Parties will be provided with a written copy of the terms of the Informal Resolution agreement. The Title IX Officer or designee will maintain all records regarding Informal Resolution.

7. Respondent Acceptance of Responsibility

The Respondent may accept responsibility for all or part of the alleged Policy violation(s) at any point during the resolution process. If the Respondent wishes to accept responsibility and Informal Resolution is not prohibited under Section VI.B.2 above, the Title IX Officer may initiate the Informal Resolution process, after obtaining both Parties' voluntary, written consent, and after providing the required *Notice of Informal Resolution* if it has not already been provided.

Any remaining allegations that are not resolved through the Informal Resolution process may proceed to investigation or Hearing, as appropriate.

C. Investigation Process

When investigating a Formal Complaint, the below procedures will be utilized. However, at any time prior to reaching a determination regarding responsibility, an Informal Resolution may occur if appropriate conditions are satisfied (see Section VI.B of these Procedures).

1. Presumption of Not Responsible

Respondents are presumed not responsible for any and all allegations until the conclusion of the investigation and adjudication process. At the conclusion of the process, the University provides the Parties with the written determination of the final outcome following any appeal if an appeal is filed, or after the date by which an appeal must be filed has passed under Section VI.D.9.c.ii of these Procedures.

2. Notice of Rights and Responsibilities

The Complainant and Respondent are required to review and sign their *Notice of Rights and Responsibilities*. The Investigator will verify that the Parties have received, reviewed, and signed their *Notice of Rights and Responsibilities* and have been provided with a copy of this Policy and Procedures to ensure the Parties have adequate information about the investigation and adjudication. The Investigator will also ensure that both Parties have had an opportunity to ask and receive answers to any questions. ~~For staff, faculty, and~~ Third parties, the notice will be provided by the Title IX Officer or designee. ~~For students, the notice will be provided by the Office of Student Conduct (OSC).~~

The *Notice of Rights and Responsibilities* will include but is not limited to the following:

- a. Right to be treated with dignity and respect by all University officials;
- b. Right for information to only be shared with others on a need-to-know basis in order to facilitate a resolution;
- c. Right to be informed of available Supportive Measures;
- d. Right to be informed of available community and campus resources and services;
- e. Right to a Support Person and/or an Advisor;
- f. Right to regular updates on the status of the investigation and/or resolution; and
- g. Prohibition against Retaliation and guidance about reporting any retaliatory conduct.

3. Written Notice of Formal Complaint

After a Formal Complaint is filed, the Parties will be provided a Written *Notice of Formal Complaint*. ~~The notice will be provided by the Title IX Officer or designee, which~~ and will include the following:

- a. The University's complete Policy and Procedures as set forth herein;
- b. The allegations of Prohibited Conduct as defined by this Policy;
- c. The identities of the Parties involved, if known;
- d. The date(s), location(s), and time(s) of the alleged incident(s), if known;
- e. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the adjudication process;

- f. Information indicating that the Parties may have an Advisor of their choice, who may be an attorney and who may inspect and review evidence;
- g. Notice that if the Parties do not select an Advisor of their choice, the University will provide a trained Advisor prior to the pre-hearing meeting for purposes of performing cross-examination on behalf of that Party at the Hearing;
- h. Information indicating that the Parties may have a Support Person of their choice;
- i. Advisement that knowingly making false statements or knowingly submitting false information during the investigation and adjudication process is prohibited under Section XIII of this Policy;
- j. Notice that if the University decides to investigate additional allegations about either Party that are not in the original notice, the Parties will receive an amended notice containing the additional allegations; and
- k. The range of potential Sanctions associated with the alleged Prohibited Conduct.

4. Role of the Investigator

The Title IX Officer or designee will designate an Investigator(s) from OCRSM and/or an external Investigator to conduct a prompt, thorough, fair, and impartial investigation. The Investigator is responsible for conducting an objective investigation, including objectively evaluating all inculpatory and exculpatory evidence. The Investigator will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.

5. Overview of the Investigation

a. Standard of Proof

The standard of proof for a determination of responsibility under this Policy is Preponderance of the Evidence. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility remain with the University and not with the Parties.

b. Evidence

The investigation is an impartial fact-gathering process. It is an important stage of the process in which both Parties have an opportunity to be heard regarding the Formal Complaint. During the investigation, the Investigator will speak separately with both Parties and any other individuals who may have relevant information. No audio or video recording of any kind is permitted during such interviews. The Parties will each have an equal opportunity to present witnesses (including fact and expert witnesses, at their own expense) and any other relevant evidence.

Evidentiary materials, regardless of relevance, may be provided by a Party; however, the Investigator will determine whether and how the evidence and witnesses submitted by the Parties is directly related to the allegations and whether and how that information will be factored into the investigation. The Investigator will also gather any available physical evidence or documents, including prior statements by the Parties or witnesses, communications between the Parties, email messages, text messages, social media materials, and other records, as appropriate and available.

The University does not restrict the ability of Parties to discuss allegations that have been reported or to gather and present evidence. However, the University has a compelling interest in protecting the integrity of the resolution process, protecting the privacy of Parties and witnesses, and protecting Parties and witnesses from harassment, intimidation, or Retaliation during the resolution process. To further these goals, witnesses and Parties are encouraged to limit their sharing of information about a matter (including the allegations, the identities of the Parties and witnesses, and the questions asked in interviews) while the resolution process is ongoing. Parties and witnesses are also cautioned not to discuss the allegations in a manner that constitutes Retaliation or unlawful conduct.

c. Special Considerations

Information related to the prior sexual history of either Party is generally not relevant to the determination of a Policy violation. However, prior sexual history between the Parties may be relevant in very limited circumstances. For example, where there was a prior or ongoing consensual relationship between the Parties, and where Consent is at issue in the case at hand, evidence as to the Parties' prior sexual history as it relates to Consent may be relevant to assess the manner and nature of communications between the Parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to show Consent as defined in Section VII of this Policy. Sexual history will never be used for purposes of illustrating either Party's individual character or reputation. The Investigator will determine the relevance of prior sexual history and inform the Parties if information about the Parties' sexual history with each other is deemed relevant.

The University cannot access, consider, disclose, or otherwise use a Party's record(s) that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the capacity thereof or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party. However, a Party can provide voluntary, written consent to use the above-mentioned material for the investigation and adjudication. Such consent shall be specifically limited to the information provided. At no time shall consent be construed as consent to access any other information in the Party's records. If a Party provides consent to use such material during the investigation stage, and the evidence is directly related to the Formal Complaint, the material will be shared with the other Party as part of the evidence made available for their inspection and review.

The Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

d. Draft Investigation Report

At the conclusion of the investigation, the Investigator will provide a written investigation report (the *Draft Investigation Report*) that provides a case timeline, appropriately summarizes the information gathered (including, but not limited to, the names of witnesses and summaries of their statements), and outlines evidence that is directly related to the Formal Complaint.

e. Notice of Opportunity to Review the Draft Investigation Report

Before the investigation report is finalized, the Parties will be given an equal opportunity to review and meaningfully respond to the *Draft Investigation Report*. The Investigator will also send to the Party, and the Party's Advisor, if any, all evidence obtained that is directly related to the Formal Complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a Party or other source, for inspection and review. This evidence may be provided using electronic means that precludes downloading, forwarding, or otherwise sharing. Parties will have ten (10) Days to review the *Draft Investigation Report* and submit a written response, including comments, information, and/or questions to the Investigator.

If there is any new or additional information to be provided by either Party, it must be presented to the Investigator at this time. Any and all information for consideration by the Hearing Officer must be provided to the Investigator during the investigation phase of the process and otherwise will not be allowed during the Hearing. If a Party requests that additional information be considered during the Hearing, the Party must clearly demonstrate that such information was not reasonably available to the Parties at the time of the investigation, or that the evidence has significant relevance to a material fact at issue in the investigation. If a Party provides or identifies evidence after the Final Investigation Report is issued, and the Hearing Officer determines that it was reasonably available to them during the investigation process, the Hearing Officer has the discretion to choose to consider such information, and may draw a negative inference from the Party's delay in providing or identifying the evidence. The Hearing Officer may, at their discretion, instruct that the investigation be re-opened to consider the evidence. In such cases, the evidence will be made available to the Parties for their review and comment prior to the Hearing.

If further investigation is warranted based on the Parties' written responses, the Investigator will continue the investigation, as

needed. The Investigator will consider the Parties' written responses prior to completing the *Final Investigation Report*.

f. Final Investigation Report

Upon timely receipt of the Parties' written responses, or after the ten (10) Day review period has lapsed with no written responses, the investigation ends. The Investigator will complete the *Final Investigation Report*. The *Final Investigation Report* will contain summaries of all relevant information obtained throughout the course of the investigation and may contain an analysis of fact.

The *Final Investigation Report* will be submitted to the Hearing Officer.

D. Adjudication Process

1. Review of Final Investigation Report

- a. Following completion of the *Final Investigation Report*, the Title IX Officer or designee will provide each Party and Party's Advisory, if any, with a confidential copy of the *Final Investigation Report*, including all attachments, and explain the next steps in the process. The *Final Investigation Report* may be provided using electronic means that precludes downloading, forwarding, or otherwise sharing. ~~meet separately with each Party and their Advisor, if applicable.~~ If a Party does not identify their Advisor at this time, the University will provide an Advisor for purposes of the pre-hearing meeting and Hearing.

~~At the meeting, the Title IX Officer or designee will provide each Party and each Party's Advisor, if any, with a confidential copy of the *Final Investigation Report*, including all attachments, and explain the next steps in the process. The *Final Investigation Report* may be provided using electronic means that precludes downloading, forwarding, or otherwise sharing. If a Party does not have an Advisor present at this meeting, a confidential copy of the *Final Investigation Report* will be provided to the Party's Advisor prior to the pre-hearing meeting.~~

- b. Each Party will be notified that they have ten (10) Days to submit a written response to the *Final Investigation Report* to the Title IX Officer or designee, which will be shared with and considered by the Hearing Officer. Exceptions to the 10-Day timeframe may be granted by the Title IX Officer or designee during times when the University is not in session or in other circumstances. After ten (10) Days have elapsed with no response and no request for an extension, the process will move forward without a written response. All written responses will be shared with the other Party prior to the Hearing.
- c. In order to protect the privacy of all individuals involved, all materials shared with the Parties are considered confidential and should not be publicly disclosed or released.

2. Hearing Case File

Before the pre-hearing meeting and Hearing, the Title IX Officer or designee will provide the Parties, their Advisors, and the Hearing Officer with access to the complete hearing case file. The hearing case file will include:

- a. The complete *Final Investigation Report*;
- b. All directly related evidence subject to the Parties' inspection and review as explained in Section VI.C.5.e of these Procedures; and
- c. The Parties' written responses to the *Final Investigation Report*.

3. Role of the Hearing Officer

- a. The Hearing Officer is responsible for maintaining an orderly, fair, and respectful Hearing. The Hearing Officer has broad authority to respond to disruptive behaviors, including adjourning the Hearing or excluding disruptive persons, and will ensure efficient administration of the Hearing. The Hearing Officer will have discretion to determine the structure of the Hearing and how questioning is conducted, including but not limited to the order of witnesses to be questioned, if any, consistent with these Procedures.

- b. The Hearing Officer will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.
- c. The Hearing Officer is the decision maker responsible for determining whether or not the Policy was violated. The Hearing Officer is also the decision maker responsible for determining any appropriate Sanctions and other responsive actions imposed on the Respondent, if any, upon a finding of responsibility.

4. Pre-Hearing Meeting

- a. The Hearing Officer will convene a separate meeting with each Party and their Advisor and Support Person, if applicable, to:
 - i. Plan for the Hearing;
 - ii. Identify their Advisor and, if applicable, Support Person;
 - iii. Review the Procedures to be followed at the Hearing;
 - iv. Discuss the process of raising a concern that the Hearing Officer has an impermissible bias or conflict of interest as set forth in Section VI.D.5.b.v, below;
 - v. Review the complete list of witnesses that will be asked to appear in accordance with paragraph (c), below;
 - vi. Discuss any technology that will be used at the Hearing and how to operate such technology;
 - vii. Discuss the time allotted for the Hearing and any time limitations; and
 - viii. Answer any other questions or remaining concerns prior to the Hearing.
- b. Attendance at the pre-hearing meeting is strongly encouraged for each Party. A Party's decision not to participate may result in decisions regarding witnesses and procedural matters being made without their input. If neither Party attends the pre-hearing meeting, the Hearing Officer will determine all procedural matters in advance of the Hearing.
- c. Generally, the University will request that all witnesses interviewed during the investigation attend the Hearing for questioning. However, the Hearing Officer, only with full agreement of the Parties, may decide through the pre-hearing meeting(s) that certain witnesses do not need to be invited to the Hearing if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the Hearing. Any such agreement will be confirmed in writing by both Parties. The Hearing Officer has the discretion to request the attendance of other witnesses in accordance with Section VI.D.6.h.

5. Written Notice of Hearing

- a. The Title IX Officer or designee will use reasonable efforts to consult with all involved individuals, including the Complainant, Respondent, Support Persons, Advisors, and witnesses, in order to schedule the Hearing.
- b. Parties will receive a *Written Notice of Hearing* at least ten (10) Days in advance of the Hearing. The Notice will include pertinent information about the Hearing, its procedures, and the rights and responsibilities of the Parties, and will include the information below.
 - i. The Notice will include a description of the charges of Policy violation(s), a copy of the applicable Hearing procedures, and a statement of the potential Sanctions/responsive actions that could result.
 - ii. The Hearing date, time, location, purpose, and the list of participants, including the complete list of witnesses requested to attend the Hearing for questioning, will be provided.

- iii. The Hearing Officer may reschedule the Hearing if necessary to facilitate the participation of Parties and witnesses, or for other reasons that they deem to be compelling.
- iv. Each Party must have an Advisor present at the Hearing, without exception. If a Party does not have an Advisor present at the Hearing, the University will provide one free of charge for the purpose of conducting cross-examination on behalf of that Party at the Hearing.
- v. The Parties may object to the Hearing Officer on the basis of demonstrated bias or conflict of interest for or against Complainants or Respondents, generally, or for or against the individual Complainant or Respondent. Objections must be raised with the Title IX Officer or designee at least two (2) Days prior to the Hearing.
- vi. A Party's participation is voluntary and a Party may choose not to appear at the Hearing. However, if any Party does not appear at the scheduled Hearing after receiving appropriate notice, the Hearing will be held in their absence, unless there are extenuating circumstances as determined by the Hearing Officer. ~~Any statements given by the Party prior to the Hearing will not be considered by the Hearing Officer (though the Hearing Officer may continue to consider and rely on alleged verbal conduct that constitutes all or part of the underlying alleged Prohibited Conduct itself).~~ The Hearing Officer will make a determination regarding responsibility and any sanctions, if appropriate, without the participation of the absent Party.
- vii. The hearing case file, including all directly related evidence subject to the Parties' inspection and review as explained in Section VI.D.2 of these Procedures, will be available at the Hearing to give each Party equal opportunity to refer to evidence during the Hearing, including for purposes of cross-examination.
- viii. A copy of all the materials provided to the Hearing Officer about the matter will be shared with the Parties, unless they have been provided already.
- ix. The Parties may contact the Title IX Officer or designee to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the Hearing. Such accommodations must be requested at least seven (7) Days prior to the Hearing.
- x. The Notice will indicate whether the Parties may bring mobile phones or other devices into the Hearing, and any related restrictions.
- xi. The Hearing Officer may conduct the Hearing with all Parties and witnesses physically present in the same geographic location or with any or all Parties, witnesses, and other participants virtually present at the Hearing. Technology enabling virtual participation must allow participants simultaneously to see and hear each other.
- xii. At either Party's request, the University will provide the Parties with separate rooms or separate virtual rooms. The University will use technology enabling the Hearing Officer and Parties to simultaneously see and hear the Party or the witness who is answering a question.
- xiii. The Hearing is closed to the public.
- xiv. The Hearing will be recorded by the University (either audio or audio-visual). No other recordings are permitted. Recordings are maintained by the University. Parties may submit a written request to the Title IX Officer to inspect and review the recording after the Hearing.

6. Hearing Procedures

- a. The Hearing does not take place within a court of law and is not bound by formal rules of evidence that apply to court proceedings.
- b. The Hearing Officer will preside over the Hearing.
- c. The Investigator will summarize the *Final Investigation Report* and clarify any information in the Final Investigation Report.

- d. Each Party may provide a brief opening statement.
- e. Each Party's Advisor will be provided an opportunity to cross-examine the other Party and any witnesses. Questioning will be conducted directly, orally, and in real time by the Party's Advisor only. Parties may not question each other or witnesses directly.
- f. The hearing case file and all directly related evidence subject to the Parties' inspection and review as explained in Section VI.D.2 of these Procedures will be available at the Hearing to give each Party equal opportunity to refer to evidence during the Hearing, including for purposes of cross-examination.
- g. Any and all information for consideration by the Hearing Officer must be provided to the Investigator during the investigation phase of the process and otherwise will not be allowed during the Hearing.
 - i. If a Party requests that additional information be considered during the Hearing, the Party must clearly demonstrate that such information was not reasonably available to the Parties at the time of the investigation, or that the evidence has significant relevance to a material fact at issue in the investigation.
 - ii. If a Party provides or identifies evidence after the Final Investigation Report is issued, and the Hearing Officer determines that it was reasonably available to them during the investigation process, the Hearing Officer has the discretion to choose to consider such information, and may draw a negative inference from the Party's delay in providing or identifying the evidence.
 - iii. The Hearing Officer may, at their discretion, instruct that the investigation be re-opened to consider the evidence. In such cases, the evidence will be made available to the Parties for their review and comment prior to the Hearing.
- h. The Hearing Officer will generally exclude from the Hearing any witnesses who were not previously identified during the investigation and requested to attend by the University.
 - i. If a Party wishes to present another witness, they must clearly demonstrate that the witness was not reasonably available or not reasonably known to the Parties at the time of the investigation, or that the witness is likely to have information that has significant relevance to a material fact at issue in the investigation.
 - ii. The Hearing Officer may, at their discretion, choose to consider information from such witnesses and may draw a negative inference from the Party's delay in identifying the witness.
 - iii. The Hearing Officer may, at their discretion, instruct that the investigation be re-opened to allow that witness to be interviewed. In such cases, the interview will generally be conducted by the Investigator and a summary of information provided by the witness will be made available to the Parties for their review and comment prior to the Hearing.
- i. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. All relevant questions and follow-up questions, including those challenging the credibility of Parties and witnesses, will be allowed. Consistent with the foregoing, the Hearing Officer may also exercise their discretion to exclude any questions they deem to be harassing or unnecessarily repetitive, and will explain any decision to exclude a question on these grounds.
- j. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence:
 - i. Are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
 - ii. Concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove whether Consent was present.
- k. Questions and evidence about the Respondent's prior sexual history with an individual other than a Party to the proceedings may only be considered if the evidence:

- i. Proves prior sexual misconduct;
 - ii. Supports a claim that a Party has an ulterior motive; or
 - iii. Impeaches a Party's credibility after that Party has put their own prior sexual conduct in issue.
- l. The Hearing Officer may not consider a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the University obtains that Party's voluntary, written consent to provide that information for consideration.
 - m. The Hearing Officer may not consider any questions or evidence about a student's history of mental health counseling, treatment, or diagnosis, unless the student consents to providing that information for consideration.
 - n. The Hearing Officer may not consider questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- ~~e. If a Party or witness does not answer the cross-examination questions that are deemed relevant by the Hearing Officer, if any, then the Hearing Officer must not rely on any statement by that Party or witness in reaching a determination regarding responsibility.~~
- ~~i. This prohibition applies to statements made by the Party or witness at the Hearing, in the investigative report, and in evidence, such as in a police report, medical report, or other record.~~
 - ~~ii. The Hearing Officer may continue to consider and rely on alleged verbal conduct that constitutes all or part of the underlying alleged Prohibited Conduct itself.~~
 - ~~iii. The Party or witness's reason for refusing to answer a relevant question does not matter.~~
- ~~p. o. A Party's or witness's failure to answer a question posed by the Hearing Officer does not trigger a prohibition against relying on that Party's or witness's other statements. However,~~†The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.
- q. p. During the Hearing, the Hearing Officer may call for or grant requests for recesses as needed, and the Hearing Officer retains the discretion to balance recesses with the need to conduct the Hearing in an orderly and timely fashion. Each Party may request recesses if needed to speak privately with an Advisor or Support Person, or for other reasons. The Hearing Officer may suggest recesses if they feel it may be helpful to a Party, particularly during cross-examination.
 - r. q. Each Party will have the opportunity to make a brief closing statement.
 - s. r. The Hearing Officer may determine that multiple sessions or a pause in the continuation of the Hearing until a later date or time is needed to complete the Hearing. If so, the Hearing Officer or Title IX Officer or designee will notify all participants and will endeavor to accommodate all participants' schedules to complete the Hearing as promptly as practicable.

7. Written Notice of Determination

The Hearing Officer will provide the Parties with a *Written Notice of Determination* at the same time. The *Written Notice of Determination* will include:

- a. Identification of the allegations at issue;
- b. A description of the procedural steps taken throughout the case;
- c. Findings of fact supporting the determination;

- d. Conclusions regarding application of the Policy to the facts;
- e. A statement of, and rationale for, the determination for each allegation;
- f. A statement of, and rationale for, any Sanctions imposed on the Respondent, and whether any Remedies will be provided to the Complainant, as set forth in more detail below; and
- g. A description of the procedures and permissible grounds for appeal.

8. Disciplinary Sanctions, Remedies, and Other Responsive Actions

The University may take responsive action based on a determination of responsibility for a violation of the Policy. Responsive action is intended to eliminate Prohibited Conduct, prevent its recurrence, and promote accountability while supporting the University's educational mission and legal obligations. Responsive action may include Sanctions, Remedies, or other responsive action including rehabilitation, educational, restorative, or monitoring components.

- a. Prior to issuing the Written Notice of Determination, the following will occur:
 - i. ~~Parties will have the option to provide written impact statements to the Hearing Officer within three (3) Days of completion of the Hearing.~~
 - ii. i. The Hearing Officer shall confer with the Title IX Officer or designee, and shall confer with other University administrators as appropriate, prior to issuing the written determination.
 - a. Other University administrators may include UHR/Staff Relations and department/unit heads and supervisors for staff, and the Provost's Office/Faculty Affairs and department/unit heads and supervisors for faculty.
 - b. In determining an appropriate sanction for staff Respondents, the Hearing Officer shall consult with UHR/Staff Relations prior to issuing the Written Notice of Determination.
 - c. If termination and/or removal of tenure may be an appropriate sanction for faculty Respondents, the Hearing Officer shall consult with the Provost, who shall consult with other administrators, as deemed appropriate by the Provost.
 - iii. ii. Although the Hearing Officer shall confer with University officials as described above, the Hearing Officer is the decision maker responsible for issuing the *Written Notice of Determination*.
 - iv. iii. The Title IX Officer or designee and other University administrators will provide input with respect to any recommended Sanction and other responsive action to the Hearing Officer.
 - v. iv. The University will not publicly disclose personally identifiable information about the Parties or the written determination (including any Sanctions) except as required by law.
- b. The range of Sanctions and other responsive actions that may be imposed upon the Respondent include, but are not limited to, the following:
 - i. For students:
 - a. Degree revocation: Rescinding a degree previously awarded by the University. A permanent notation will appear on the student's transcript.
 - ~~b. Expulsion: Permanent separation of the student from the University. A permanent notation will appear on the student's transcript. The student will also be barred from University premises (grounds and buildings). Pursuant to delegated authority, the Vice President for Student Affairs shall administratively approve expulsions.~~

- e. Suspension: Separation of the student from the University for a specified period of time. A permanent notation will appear on the student's transcript. The student shall not participate in any University-sponsored activity and may be barred from University premises (grounds and buildings) during the period of suspension. Suspended time will not count against any time limits required by the Graduate School for completion of a degree. A sanction of suspension may be withheld. ~~Pursuant to delegated authority, the Vice President for Student Affairs shall administratively approve suspensions.~~
- d. Disciplinary Probation: The student is prohibited from representing the University in any extracurricular activity or from running for or holding office in any student or University organization. Additional restrictions or conditions may also be imposed.
- e. Disciplinary Reprimand: Warning to the student that further misconduct may result in a more severe disciplinary action.
- f. Educational Sanctions: In addition to Sanctions specified above, educational Sanctions that provide the student with learning, assistive or growth opportunities, research or reflective assignments, community services, values/ethics-based activities or other learning-based sanctions.
- g. Housing Sanctions which may include, but are not limited to: University Housing Termination, Denial of Re-contracting with University Housing, Administrative Room Moves, and Housing Probation. Students who are terminated from Housing or are Denied the ability to Recontract with University Housing are rendered ineligible to lease space in the Courtyards at Maryland and South Campus Commons apartment communities, as well as some University-owned Fraternity and Sorority houses.
- h. No Contact Order.
- i. Denial of Access to campus grounds and/or buildings.
- ii. For staff:
 - a. Separation from employment, up to and including termination;
 - b. Suspension without pay;
 - c. Reassignment;
 - d. Written reprimand;
 - e. Education and training
 - f. No Contact Order; and
 - g. Denial of Access to campus grounds and/or buildings.
- iii. For faculty:
 - a. Separation from employment, up to and including termination and loss of tenure;
 - b. Suspension without pay;
 - c. Reassignment;
 - d. Written reprimand;
 - e. Education and training;

f. No Contact Order; and

g. Denial of Access to campus grounds and/or buildings.

iv. For third parties:

a. Restrictions on participation in University programs or activities, attendance at University events, or ability to enter campus grounds and/or buildings.

c. The following factors will be considered before imposing Sanctions and other responsive actions on a Respondent:

i. The nature and degree of violence involved in the conduct at issue.

ii. The impact of the conduct on the Complainant.

iii. The impact of the conduct on the community and/or the University.

iv. Prior relevant misconduct by the Respondent.

v. Maintenance of a safe and respectful environment conducive to working and learning.

vi. Protection of the University community.

vii. Any other mitigating, aggravating or compelling circumstances appropriate to reaching a just and appropriate resolution.

d. The range of Remedies that may be provided to a Complainant:

The University may provide reasonable Remedies to a Complainant based on a determination of responsibility for a violation of the Policy. The range of Remedies that may be provided to a Complainant include, but are not limited to:

i. For students:

a. Supportive measures: such as extended classwork deadlines, flexible deadlines on course deliverables, change of venue for taking a test or exam, change in test or exam date and/or retaking of a test or exam.

b. Academic accommodations: such as retroactive drop from a particular class, retroactive withdrawal from a semester, policy exemption requests and/or tuition reimbursement.

c. Additional accommodations: such as a No Contact Order, Denial of Access for the Respondent, housing accommodation, course schedule changes, counseling, referral to University resources including CARE to Stop Violence, and/or referral to outside agencies.

ii. For staff:

a. Supportive measures: such as reassignment to a different shift, location, supervisor or work unit.

b. Additional accommodations: such as counseling, referral to University resources including CARE to Stop Violence, and/or referral to outside agencies.

iii. For faculty:

a. Supportive measures: such as reassignment of duties, change in work location, change in service assignments, change in reporting structure.

- b. Additional accommodations: such as counseling, referral to University resources including CARE to Stop Violence, and/or referral to outside agencies.
 - iv. For third parties:
 - a. Referral to outside agencies/resources.
 - b. Connection with another institution's Title IX Coordinator, if applicable.
- e. In the event of a written determination that the Respondent violated the Policy and that Remedies provided to the Complainant are warranted, the following will occur:
 - i. Remedies will be provided to the Complainant on a confidential basis.
 - ii. The written determination issued by the Hearing Officer will not include specific Remedies provided to the Complainant but will state whether Remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided.
 - iii. Remedies are considered confidential and the Respondent will not have access to specific information about what Remedies will be provided except to the extent that the Remedies are punitive and burden the Respondent.
 - iv. Remedies may not be appealed by either Party.
 - v. The University will not publicly disclose personally identifiable information about the Parties, the written determination, or the Sanctions, except as required by law.

9. Appeals

a. Bases for Appeals

Either Party may initiate this appeal process when the Party receives a *Written Notice of Designation* or a *Written Notice of Determination*. Appeals of a *Written Notice of Designation* are limited to where there is a decision to: (1) dismiss the Formal Complaint; or (2) not designate the alleged conduct as Title IX-based Prohibited Conduct. Appeals must be submitted in writing to the Title IX Officer within five (5) days of receipt of the Written Notice of Designation or the Written Notice of Determination. Appeals are limited to the bases listed below.

i. Procedural Irregularity

- a. In all cases, the procedural irregularity must be one that affects the ultimate outcome of the designation or the written determination.
- b. A procedural irregularity affecting the designation or the written determination may include: a failure to follow the University's procedures; a failure to objectively evaluate all relevant evidence, including inculpatory or exculpatory evidence; or a determination regarding what evidence was excluded as irrelevant.

ii. New Evidence

- a. New Evidence is evidence that was not reasonably available at the time the designation or written determination was made, and that is significant and relevant enough that it could affect the outcome.
- b. Evidence presented prior to the time the designation or written determination is issued does not qualify as new evidence, as it was reasonably available at the time.

iii. Conflict of Interest or Bias

- a. The Title IX Officer or designee, Investigator, or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the designation or written determination.
- b. Appeals submitted on the grounds of conflict of interest or bias should be based on the current case and process in question and will be assessed accordingly.

iv. Substantially Disproportionate Sanction as given within the *Written Notice of Determination*

- a. The Sanction set forth in the written determination is substantially disproportionate to the offense, which means it is unreasonable given the facts or circumstances of the particular Policy violation.

b. Appellate Hearing Officer

Appeals will be reviewed by the designated Appellate Hearing Officer(s) for all appeals of designations or written determinations under these Procedures. The Appellate Hearing Officer(s) will be determined in accordance with the Respondent's status, as explained below. The Appellate Hearing Officer(s) shall be free from conflict of interest or bias and shall not be the same person who reached the determination regarding the designation or the written determination, the Investigator, or the Title IX Officer. All Appellate Hearing Officers will have had no previous involvement with the case that the Appellate Hearing Officer(s) are assigned to review.

- i. Appeals involving a student Respondent shall be reviewed by a panel of trained Appellate Hearing Officers known as the University Senate Student Conduct Committee.
- ii. Appeals involving a staff or third-party Respondent shall be reviewed by the Vice President and Chief Administrative Officer (VP&CAO) or designee. The VP&CAO or designee may appoint trained staff members available to serve as an Appellate Hearing Officer. Appeals involving staff or third-party Respondents may be assigned to one such Appellate Hearing Officer on a rotating case basis.
- iii. Appeals involving a faculty Respondent shall be reviewed by the Senior Vice President and Provost (Provost) or designee. The Provost or designee may appoint trained faculty members available to serve as an Appellate Hearing Officer. Appeals involving faculty Respondents may be assigned to one such Appellate Hearing Officer on a rotating case basis.

c. Appellate Process

The appellate process following a *Written Notice of Designation* or *Written Notice of Determination* will proceed as follows:

- i. Appeals will be in writing only. There will be no Hearing.
- ii. Parties will have five (5) Days from receipt of a *Written Notice of Designation* or *Written Notice of Determination* to submit a written appeal statement challenging the decision.
- iii. Parties will be notified if the other Party files a written appeal statement and given notice in writing of the general grounds for the appeal. The other Party will be given five (5) Days from receipt of the other Party's written appeal statement to submit a written appeal statement in support of the designation or written determination.
- iv. The Title IX Officer or designee shall coordinate the scheduling of the Appellate Hearing Officer(s) and notify the Parties of the date of the appeal deliberation.
- v. The appeal deliberation is closed to the parties.
- vi. The Appellate Hearing Officer(s) will issue a written decision including its rationale, which decision shall be shared with both Parties, within ten (10) Days of the deliberations.

vii. The Appellate Hearing Officer(s) may:

- a. affirm the designation or written determination;
- b. overturn the designation or written determination;
- c. affirm the determination of responsibility and modify the sanction if it is found to be disproportionate; or
- d. remand the case to remedy procedural errors, remedy a conflict of interest or bias, or consider new evidence.

viii. The written decision by the Appellate Hearing Officer(s) is final and is not subject to further appeal.

ix. After the appeal process is concluded or when the time for filing an appeal has expired and neither Party has submitted an appeal, the Title IX Officer or designee shall notify the Parties simultaneously of the final outcome of the adjudication process.

x. The determination regarding responsibility for a violation of the Policy becomes final either on the date that the University provides the Parties with the written decision of the result of the appeal if an appeal is filed, or if an appeal is not filed, after the five (5) Day period for filing an appeal has lapsed. In cases that are remanded by the Appellate Hearing Officer(s), the determination will not become final until all remanded proceedings are completed.

10. Academic Transcripts and Effect of Withdrawal on Student Respondents

Following completion of all appeals processes, Sanctions of expulsion and suspension are permanently noted on a student Respondent's academic transcript. In the event a Respondent chooses to withdraw from the University prior to the resolution of a Formal Complaint, or where the Respondent declines to participate in the University proceedings under this Policy and Procedures, the University will continue the resolution process in accordance with these Procedures. When a Respondent withdraws before the conclusion of the resolution process, the Respondent is ineligible to return to the University until the resolution process has concluded.

11. Post-Resolution Follow-Up

After any Sanction and/or Remedies are issued, if the Complainant agrees, the Title IX Officer or designee may periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine whether additional Remedies are necessary. The Complainant may decline future contact at any time. The Title IX Officer or designee may periodically contact the Respondent to assure compliance with the intent and purpose of any Sanction and/or Remedies that have been imposed. Any violation by a Respondent of the intent and purpose of any Sanction and/or Remedies imposed under the Policy, or a failure by a University employee to provide specified Sanctions or Remedies should be reported to the OCRSM. OCRSM will take appropriate steps to address any such violation or failure, or will refer it to appropriate University offices for review under other disciplinary procedures.

The Complainant and Respondent are encouraged to provide the Title IX Officer or designee with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the University's implementation of this Policy and Procedures.

¹ University employees may have additional reporting obligations under VI-1.50(A) University of Maryland Policy on the Reporting of Suspected Child Abuse and Neglect.

² See 34 C.F.R. § 106.30 (defining "Sexual Harassment" under Title IX).

³ This definition encompasses the FBI uniform crime reporting system offenses required by Title IX.

⁴ The statutory age of consent in Maryland is 16. See Md. Code Ann., Crim. Law §§ 3-301 to -307.

⁵ This mandatory dismissal is required by 34 C.F.R. § 106.45(b)(3)(i).



Request to Review University of Maryland Policy X-3.01(A) Concerning Telephone Billing

PRESENTED BY	Steve Halperin, Chair
REVIEW DATES	SEC – May 17, 2024 SENATE – XX x, 2024
VOTING METHOD	In a single vote
RELEVANT POLICY/DOCUMENT	X-3.01(A) – University of Maryland, College Park Policy and Procedures Concerning Telephone Billing
NECESSARY APPROVALS	Senate, President

ISSUE

In December 2022, a [proposal](#) was received from the Information Technology Council (ITC) Chair, Jeffery Klauda, to review the [University of Maryland, College Park Policy and Procedures Concerning Telephone Billing X-3.01\(A\)](#). The proposal states the policy should be reviewed and if appropriate removed or adjusted. The current policy is more than 30 years old, contains outdated language and billing practices. During the initial SEC review, concerns arose about the policy review process, leading to a postponement of the proposal's consideration until February 2023. Before this meeting, an [alternative proposal](#) was submitted suggesting a review of Policy X-3.01(A) due to equity concerns with the current billing model. It proposed that the Campus Affairs Committee (CAC) conduct the review to assess the impact of telephone billing changes on the campus community.

In February 2023, both proposals were reviewed by the SEC, which charged the CAC with conducting the policy review. In April 2023, the CAC received a charge document (Appendix 1) for the review. Later, an updated charge (Appendix 2) was received on November 30, 2023, which included additional elements of consulting with a representative group of Deans and extending the deadline from January 2024 to May 2024.

RECOMMENDATION(S)

The Campus Affairs Committee has recommendations to be considered by the University:

- It strongly recommends that the Telephone Billing Policy X-3.01(A) shown immediately following this report be deactivated.

The Campus Affairs Committee acknowledges that the Senate does not have any purview over the implementation of policy but has the following recommendations to be considered:

- It strongly recommends that wireless and wired communications be centrally funded by the Division of Information Technology's base budget.
- It strongly recommends that a process be established through which, when significant new technology is under consideration, the Deans could interact with the Vice President for

Division of Information Technology about its potential impact on their education and research missions.

COMMITTEE WORK

The CAC began work on the charge during its April 2023 meeting by discussing the proposals to consider the holistic viewpoint of how telephone billing affects the campus community. The operational nature of the telephone billing policy presented a significant challenge concerning this review due to the ambiguity between the shared governance and administration of the entirety of what the committee could advise or recommend. BIG 10 and peer institution research data (Appendix 3) was reviewed by members. When the CAC reconvened in September 2023, members concluded that the data did not provide policy details about the specifics of how universities conduct billing practices for telephone service.

Members conducted a review of the Telephone Billing policy [X-3.01(A)], written in 1991. The policy is based on department usage, it lacks incorporation of modern IT, and services like Wi Fi are not mentioned. The policy was compared to current billing practices outlined on the Division of Information Technology (DIT) website (Appendix 4). Upon review, members unanimously agreed that the policy is outdated and does not align with current billing practices. Ancillary policies were reviewed to ensure they were not outdated and to assess potential impacts from changes in the telephone billing policy. Members concluded that any recommendations regarding telephone billing would not affect these ancillary policies. If technical updates were necessary for ancillary policies, the ITC would handle the review, given their expertise.

The committee consulted with the Chief Information Officer (CIO) and Vice President (VP) for DIT Jeffrey Hollingsworth and the ITC Chair Jeffery Klauda. Members were briefed on the meticulous selection process behind the adoption of the full-time equivalent (FTE) based charging model. The goal of changing billing practices was not to increase DIT's revenue but to establish an efficient funding method for the network's operation without adding workload. After a review of options that included three to five worker categories and the complexity associated with using a multi-rate billing system, the FTE-based charging model was chosen. Members learned that ultimately offering lower rates to address specific work scenarios would require higher rates for others to ensure the campus network's operational costs are met.

Committee members consulted with the Division of Student Affairs and eight Deans to gain feedback about the current billing practice's effect. Feedback highlighted the need for changes in the current IT services system due to issues like lack of off-site worker support, inefficient resource allocation, discrepancies for charges of student workers, and opaque billing practices. Deans acknowledged the improvement in billing ease compared to the previous telephone billing method, but concerns were raised about inequities between departments under the FTE-based charging model. Many emphasized the essential nature of telecommunications and Wi Fi in UMD operations but felt strongly that departmental costs should transparently align with services used. Suggestions included billing departments based on the number of jacks installed and moving Wi Fi costs into DIT's base budget. There was large support for centrally funding Wi Fi, but a concern was expressed about potential budget loss if Wi Fi funding became centralized. The Deans acknowledged the rapid pace of IT evolution and supported a formal process where DIT would provide a rationale for new technology or IT changes to the Deans collectively, allowing for feedback and awareness of new services. The ability to request and finance additional services beyond basic IT services was deemed necessary, enabling alignment with academic vision and the evaluation of services through trial periods by a college/school before a campus-wide implementation.

Using information gained from the consultations and committee discussions, members responded to a poll to gauge a level of consensus of potential recommendations: Telephone Billing Policy deactivation, centrally funding Wi Fi services, and recommending a stakeholder feedback process in relation to how new technology is considered for purchase. The poll's results indicated a clearer understanding of the committee's stance despite some divergent views. A subsequent consultation with CIO/VP Hollingsworth was conducted to discuss potential recommendations based on poll results, ensuring alignment between the committee's suggestions and administrative feasibility.

At the follow up DIT consultation the CAC was advised to recommend maintaining both wired and wireless technology under DIT's oversight, funded within DIT's base budget to streamline operations and enhance IT service functionality and security. Shifting funds from per FTE charges to centrally funded networking requires collaboration with Division VPs, with administrative decisions regarding unit contributions to central funding and jack requirements beyond the committee's shared governance role. Members were also advised that any committee recommendations for a billing model including per jack charges would be opposed, despite general Dean support, citing cybersecurity and IT functionality concerns. Such a model might prompt cost-saving measures like reducing or eliminating jacks, accelerating the shift to wireless networks and posing security risks and network disruption.

A consultation was held with Senate Leadership, after which the committee discussed the recommendations while considering the feedback received from Senate Leadership. Recommendations were formulated based on committee deliberations for a final vote. Committee members voted via email to approve the final recommendations that concluded on April 10, 2024. The Office of General Counsel was consulted for a legal review of the recommended policy deactivation on April 10, 2024, no objections were provided about the policy recommendation.

ALTERNATIVES

The Senate could choose not to accept these recommendations.

RISKS

There are no risks to the University in adopting these recommendations.

FINANCIAL IMPLICATIONS

There are no known financial implications to adopting these recommendations.



Request to Review University of Maryland Policy X-3.01(A) Concerning Telephone Billing

2023-2024 Committee Members

Steve Halperin (Chair)
Lester Andrist (Faculty)
Mikol Bailey (Graduate Student)
Carrie Blankenship (Ex-Officio - Chair of Coaches Council Rep)
Courtney Brown (Ex-Officio - VP & Chief Administrative Officer Rep)
Chris Carroll (Ex-Officio - VP Marketing & Communications Rep)
Corrine Carter (Faculty)
Diganta Das (Faculty)
Alexandra Debus (Ex-Officio – SGA Rep)
Leigh Ann DePope (Faculty)
Andrew Dworski (Graduate Student)
Micah Ferguson (Undergraduate Student)

Megan Gebregziabher (Ex-Officio – Provost’s Rep)
Ginny Hutcheson (Staff)
Blake Jeter (Staff)
Joseph Koivisto (Faculty)
Emily Lucio (Ex-Officio - Vice President for Diversity & Inclusion Rep)
Allynn Powell (Ex-Officio - VP Student Affairs Rep)
Jillian Rothschild (Ex-Officio – GSG Rep)
Eric Valentine (Undergraduate Student)
Lance Yonkos (Faculty)

Date of Submission

May 2024

BACKGROUND

In December 2022, a [proposal](#) was received from the Information Technology Council (ITC) Chair, Jeffery Klauda, to review the [University of Maryland, College Park Policy and Procedures Concerning Telephone Billing X-3.01\(A\)](#). The proposal states the policy should be reviewed and if appropriate removed or adjusted. The current policy is more than 30 years old, developed when phone billing included long-distance cost and other charges, contains outdated language and billings practices. It explains that the current phone plans that charge per full time equivalent (FTE) include unlimited local and domestic long-distance calls which makes this policy obsolete.

During the initial review of the proposal by the Senate Executive Committee (SEC), members expressed a concern that the policy review needed a different approach rather than a simple update. The SEC voted to postpone consideration of the proposal until the February 2023 SEC meeting. Prior to the February 2023 SEC meeting, an [alternative proposal](#) was received requesting a review of the Policy X-3.01(A) indicating concerns that the current billing model that charges per FTE was adopted by the Division of Information Technology (DIT) without a Senate review. The proposal also stated that the current billing model creates inequities for units with off-campus employees; those who hire undergraduate and graduate students, or employees that are not provided phones or offices (e.g., Math, Extension Service Faculty, Grounds and Maintenance workers, and Cafeteria workers). The proposal requested the policy review be conducted by the Campus Affairs Committee (CAC), charged to oversee the policies, concerns, and issues that affect the entire campus to ensure a consideration of how the changes in telephone billing affected the campus community.

At the February 2023 SEC meeting, both proposals were reviewed and considered, the SEC voted to charge the policy review to the CAC. In April 2023, a charge document (Appendix 1) was provided to the CAC for a review of the policy. During the committee’s review an updated charge

was received (Appendix 2) on November 30, 2023 with additional charge elements that included a consultation with a representative group of Deans and deadline extension from January 2024 to May 2024.

COMMITTEE WORK

The Campus Affairs Committee (CAC) began work on the charge during its April 2023 meeting by discussing the proposals to consider the holistic viewpoint of how telephone billing affects the campus community. The operational nature of the telephone billing policy presented a significant challenge concerning this review due to the ambiguity between the shared governance and administration of the entirety of what the committee could advise or recommend.

BIG 10 and peer institution research data (Appendix 3) was reviewed by members. A common finding was most institutions do not have policies directly addressing telephone or telecommunications billing. Instead, the policies primarily focus on acceptable cell phone / telephone usage, guidelines, and best practices. Typically, the respective university's information technology (IT) division oversees telephone communications, and a few policies state it is a department's responsibility to periodically review charges to ensure they align with department needs. When the CAC reconvened at the beginning of the academic year in September 2023, a review was given to the incoming members of the committee's charge followed by a discussion of the BIG 10 and peer institution data. Members concluded that the data did not provide policy details about the specifics of how universities conduct billing practices for telephone service.

Members conducted a review of the Telephone Billing policy [X-3.01(A)] noting it was written in 1991, involves billing departments based on department usage, includes equipment rentals, local and long-distance calls, line charges, and one-time service charges. It does not include modern technology such as voice over internet protocol (VOIP) calling, and services are being charged for that are not listed in the policy such as Wi Fi. The policy was compared to the current billing practice as stated on the DIT website (Appendix 4). Billing for the bundled services occurs by charging for each FTE worker approximately \$30 per month. The bundle includes 3.5 jacks per FTE, wireless network connectivity (Wi Fi), telephone service, conference room phones, local and domestic long-distance calls, and a determined amount of international long-distance calls. Some members could recall the previous telephone billing method as an administrative nightmare to validate the charges which this current system removed but created new problems that need to be addressed.

In the review of both the policy and the current billing practice, members quickly agreed that the policy is outdated and not in alignment with current billing practices. With this finding the committee questioned if it can propose policy changes that conflict with the current practice. Senate Leadership members clarified that while the committee has the freedom to recommend a change in policy, it should not incorporate operational details such as billing which are determined by administration.

Ancillary policies were reviewed for any outdated elements and to consider how changes to the telephone billing policy may impact these other policies. After considering that the UMD policy regarding cellular telephones, UMD Policy on University Funded Cellular Devices and Service, X-3.06(A) was currently under review by the ITC for outdated elements and another two ancillary policies [UMD Policy and Procedures Concerning Telephone Credit Cards, X-3.02(A) and UMD Policy Concerning Telecommunications Evaluations, X-3.05(A)] had already been deactivated by DIT, the committee reviewed the remaining three related to UMD Policy and Procedures Concerning Telephone Billing, X-3.01(A).

UMD Policy on Telephone System Usage, X-3.00(A) was updated in 2020, reviews acceptable use of the telephone system for University business and provides disclaimers about how phone use is recorded and subject for review. The UMD Policy and Procedures Concerning the Acquisition of Telecommunication Services and Equipment, X-3.03(A) and the UMD Policy Concerning the Use of Telecommunications Wiring and Facilities, X-3.04(A) note that the authority and responsibility for acquisition, installation, maintenance of telecommunications equipment, including telephone or hardwired equipment, is restricted and controlled uniquely within the DIT. It was determined that any recommendations made about the telephone billing policy would not interact with these ancillary policies. The committee determined that if the ancillary policies needed to be reviewed further for technical updates, the ITC would have the expertise to conduct the review.

During the evaluation of proposals, policies, and billing practices, members engaged in discussions highlighting concerns about perceived unfairness in billing. These concerns centered around individuals working off-site or telecommuting, potentially utilizing resources not supplied by DIT. Discussions included instances of double billing, notably concerning students who already pay registration fees that cover IT services and when students are employed, units are charged IT fees at a percentage of full-time equivalent (FTE) based on their work hours. Members also observed that the telephone billing policy is not being followed so a better understanding of the FTE-based charging model is needed to either rewrite the policy or deactivate it.

The committee consulted with the Chief Information Officer (CIO) and Vice President (VP) for DIT Jeffrey Hollingsworth and the ITC Chair Jeffery Klauda. Additional DIT representatives were present to provide comprehensive answers to the committee's inquiries. The committee formulated consultation questions aimed at gaining clarity on the decision-making process behind the current billing practices and addressing concerns raised by the FTE-based charging model.

Members were given the background of how the FTE-based charging model was chosen. It was described as a formalized process that took approximately two years, initiated at the recommendation of the Chief Financial Officer (CFO). It involved hiring a consulting firm to explore options for improving the billing mechanism for telecommunication services. The process involved a consultation with all stakeholder groups, reviewing the old charging model, which encompassed various telecommunication services, and adjusting the FTE rate to ensure consistent revenue collection across campus units. The objective to change the billing practices was not to increase revenue for DIT but to establish an efficient method of funding the network's operation without an added workload.

The consulting firm proposed models featuring three to five worker categories to account for various scenarios of work locations and types of workers and the complexity associated with implementing a multi-rate billing system. After a review of options, the CFO decided that a single category with a uniform rate would be the billing approach, the FTE-based charging model. This model not only covers annual operating costs but also allocates funds for capital expenses occurring every five to seven years. CIO/VP Hollingsworth explained that ultimately offering lower rates to address a specific work scenario would require higher rates for others to ensure the campus network's operational costs are met. Another DIT representative explained that regardless of whether an individual is working on campus or off campus, they are still using services and/or have services available to them such as Zoom, Box, and virtual private network (VPN).

During the consultation CIO/VP Hollingsworth acknowledged the need for changes in the telephone billing policy stating that many aspects of the policy are obsolete. Examples were cited, the cessation of telephone rentals charges since 2003 and the discontinuation of local call charges in 2010. CIO/VP Hollingsworth recommended retiring the telephone billing policy entirely due to the

evolution of telephone technology, notably the shift to Voice over IP (VOIP) which integrates telephones into the data network, blurring the distinction between telephones and computers. It was also explained that billing for telephone services has changed to resemble industry billing practices by using a bundled approach as opposed to an itemized bill. CIO/VP Hollingsworth emphasized that DIT does not set the rates for telecommunications. The President decides on the rates after receiving input from the CIO/VP, CFO, and the Senior VP/ Provost.

To gain feedback about the current billing practice's effect, committee members consulted the Division of Student Affairs and the Deans of the following Colleges and Schools:

- College of Agriculture and Natural Resources (AGNR)
- College of Arts and Humanities (ARHU)
- Robert H. Smith School of Business (BMGT)
- College of Behavioral and Social Sciences (BSOS)
- College of Computer, Mathematical, and Natural Sciences (CMNS)
- A. James Clark School of Engineering (ENGR)
- Philip Merrill College of Journalism (JOUR)
- University Libraries (LIBR)

A consultation with an Assistant Vice President (AVP) for Student Affairs was included to gain the division's perspective of how the billing practice affects non-academic units such as Dining and Residential Services, the Stamp Union, and the Wellness Center. The selection of Deans from a variety of colleges and schools were sought out to increase the committee's understanding of billing practice's effect in circumstances such as: departmentalized or non-departmentalized, a college/school with a variety work sites not located on UMD College Park campus, employment of undergraduate or graduate students, different grant funding sources, and increased level of IT demands related to the college/school academic vision.

Feedback was provided indicating the need for changes in the current IT services system, citing issues of lack of support for off-site workers, inefficient resource allocation, charges for hourly student workers that performed no work during the pay cycle, and opaque billing practices. A few Deans acknowledged that the billing has gotten easier, recalling the previous telephone billing method as a large administrative burden, however new problems have been created with the FTE-based charging model. Among the Deans for departmentalized colleges/schools it was acknowledged that the FTE-based charging model creates inequities between departments, some departments have to "cover" for others depending on the sources of funding.

Many Deans and the AVP of Student Affairs stated that telecommunications and Wi Fi are an essential expensive part of UMD operations. However, many deans felt strongly that costs billed to their departments should have a transparent connection to the services actually used by those departments. It was pointed out that the jacks are installed in campus buildings, whereas many of their FTE's correspond to employees who work off site. It was observed that telecommunications are frequently accomplished by cell phones rather than by campus phones. A number of deans suggested that departments should instead be billed by the number of jacks they chose to have installed. The conversations then turned to the use of the funds collected from departments to support Wi Fi. A number of deans, recognizing that here transparency with the needs of a department was impossible, felt that moving Wi Fi costs into the base budget of DIT could be a better method for covering those costs. Essentially Wi Fi service would be treated as a utility similar to that of heat, electricity, or water. A number of Deans while giving support for centrally funding Wi Fi emphasized the importance of maintaining college-level IT teams for tailored support and

innovation of the college/school's academic mission. A Dean expressed concern that by centrally funding Wi Fi, the college/school would lose funds in its budget to a central fund controlled by the President to fund DIT.

There was acknowledgement by the Deans that IT is changing rapidly, and new technology can be expensive. An idea for a formal process was widely supported that DIT would provide a rationale for new technology and/or necessary any IT changes to the Deans collectively before a final decision is made. This forum would also allow Deans to provide feedback, help DIT gain an awareness of new services to consider, and allow for awareness amongst Deans of useful IT services that may be beneficial campus wide. Several Deans emphasized the necessity for the flexibility to request and finance additional services beyond the standard "basic" IT services to enable a college/school to align with its academic vision. An advantage of this approach is that it permits the evaluation of a service or product through a trial period before campus-wide implementation.

The committee reviewed the information provided by the consultations with DIT, ITC, and the unit heads. There was overall agreement among the committee that the Telephone Billing Policy is obsolete and should be deactivated. Members also concluded that devising a simple and cost-effective formula for allocating costs based on services provided to a large number of users for IT services posed a challenge due to the complexities involved such as employing students with limited computer access working variable hours, or FTEs that work off-campus, and adjusting for changes in roles over time. Additionally, the variable nature of department changes affecting bundle charges creates challenges for base budgets.

The benefits of centrally funding IT services to eliminate perceived discrepancies between departments within a college/school were discussed. Members highlighted the observations by the unit heads of the importance of Wi Fi accessibility for various users, including students, researchers, and visitors, suggesting it be treated like a utility on campus. During discussions, the assumption that individuals working off-campus do not require IT services was challenged noting that services like Box, Google Office suite, and premium Zoom subscriptions are still necessary and must be paid for. A suggestion that these basic services be evenly distributed with the central fund was discussed. Members supported the idea that schools/colleges should have the option to cover extra expenses with a fee-based model related to their specific IT needs.

Additionally, the committee discussed a prospect of recommending a stakeholder feedback process in relation to how new technology is considered for purchase. Members recalled that DIT stated it primarily receives shared governance feedback from the ITC. However, they also recalled a majority of Deans consulted expressed that they want a voice about purchases that affect their unit's mission. Members discussed an idea to establish a group, potentially composed of Deans, to advise the CIO/VP for DIT on the value and necessity of new technology, ultimately ensuring better alignment between technology procurement and user needs. Members added that an evaluation of new IT to ensure its accessibility for people with disabilities is needed before it is purchased.

Using information gained from the consultations and committee discussions, committee members were provided a poll to gauge a level of consensus on the relevant questions related to this issue. The poll's results demonstrated a clearer understanding of the committee's stance despite some divergent views. A follow up consultation was held with CIO/VP Hollingsworth to discuss potential committee recommendations based on the poll results to ensure alignment between the committee's recommendations and administrative feasibility.

During the follow-up consultation, CIO/VP Hollingsworth outlined key points for the CAC to consider within the shared governance framework. The committee was advised to recommend for maintaining both wired and wireless technology under the DIT's purview, with funding for these components included in the DIT base budget. This approach would streamline operations and enhance IT service functionality and security under the CIO/VP's oversight. A shift of funds used currently to pay the charge for networking services per FTE to a centrally funded network would need to occur, units would likely have a corresponding base budget reduction. Decisions about how much wired facilities are needed by each unit would require collaboration between DIT and the Division VPs to determine unit-specific wired facility needs. CIO/VP Hollingsworth stated the decisions of how much a unit's base budget would contribute to the central funding and how many jacks are needed by a unit are at administrative level, beyond the committee's role of shared governance.

CIO/VP Hollingsworth explained that for sake of cybersecurity and functionality of IT services, he would oppose any committee recommendations advocating for a billing model that includes a per port/jack charges, despite general support from the Deans. It was explained that such a model would prompt decisions to reduce cost by reducing and/or eliminating all jacks which would lead to a rapid shift of communication from wired to wireless networks to avoid per jack charges. This would lead to wireless security risks and network disruption. CIO/VP Hollingsworth said any CAC recommendation for a billing model allowing per jack charges he would petition the President to reject.

A consultation with Senate Leadership was held to assess the committee's recommendations, ensuring they remained within the scope of shared governance. Senate Leadership raised concerns about the necessity of an additional group for major IT purchases given the existence of the ITC. It was clarified that the proposal stemmed from Dean feedback, noting that while the ITC offers technical expertise, it may not fully represent the Deans' interests. The proposed new group would serve in an advisory capacity, being nimble enough to include relevant stakeholders and avoid becoming stagnant without a vested interest in decisions.

After the consultation with Senate Leadership, the committee discussed the recommendations. Feedback received from Senate Leadership regarding the committee's recommendations was considered. Recommendations were formulated based on committee deliberations for a final vote.

Committee members voted via email to approve the final recommendations that concluded on April 10, 2024. The Office of General Counsel (OGC) was consulted for a legal review of the recommended policy deactivation on April 10, 2024, no objections were provided about the recommendation.

RECOMMENDATION(S)

The Campus Affairs Committee has a recommendation to be considered by the University:

- It strongly recommends that the Telephone Billing Policy X-3.01(A) shown immediately following this report be deactivated.

The Campus Affairs Committee acknowledges that the Senate does not have any purview over the implementation of policy but has the following recommendations to be considered:

- It strongly recommends that wireless and wired communications be centrally funded by the Division of Information Technology's base budget.

- It strongly recommends that a process be established through which, when significant new technology is under consideration, the Deans could interact with the Vice President for Division of Information Technology about its potential impact on their education and research missions.

APPENDICES

- Appendix 1 — Original Charge from the SEC
- Appendix 2 — Updated Charge from the SEC
- Appendix 3 — Peer Institution Data
- Appendix 4 — DIT New Network Funding



X-3.01(A) UNIVERSITY OF MARYLAND, COLLEGE PARK POLICY AND PROCEDURES CONCERNING TELEPHONE BILLING
(Approved by the President August 01, 1991)

I. Policy

Cost for equipment, service and calls shall be charged back to using departments. Detailed billing information shall be sent to each using department on a monthly basis. The billing information shall include equipment rental charges, local and long distance telephone calls, line charges, and one time service charges. Each department shall review all long distance charges each month and request reimbursement from users for non-business calls.

II. Procedures for Investigation of Long Distance Charges

- A. If an investigation of a charge is desired, the requesting department should send a copy of the Toll Detail Report, together with a memorandum requesting an investigation to the Department of Communication Services, Business Office, building 010.
- B. The calls to be investigated should be circled.
- C. Requests for an investigation must be made within 90 days from the billing date to be considered for a credit by the telephone company.
- D. A report of the findings will be mailed to the requestor.



Request to Review UMD Policy X-3.01(A) Concerning Telephone Billing (Senate Document #22-23-20) Campus Affairs Committee | Chair: Keira Martone

The Senate Executive Committee (SEC) and Senate Chair Newman request that Campus Affairs Committee review the proposal entitled, *Proposal to Review UMD Policy X-3.01(A) Concerning Telephone Billing*.

Specifically, The Campus Affairs Committee should:

1. Review the *Proposal to Review UMD Policy X-3.01(A) Concerning Telephone Billing* ([Senate Document #22-23-20](#))
2. Review the University of Maryland, College Park Policy and Procedures Concerning Telephone Billing ([X-3.01\[A\]](#)).
3. Review any ancillary policies related to X-3.01(A) University of Maryland, College Park Policy and Procedures Concerning Telephone Billing.
4. Review similar policies or procedures on telephone billing at Big 10 and other peer institutions.
5. Consult with a representative of the Division of IT.
6. Consult with the University Senate leadership on preliminary directions and progress of the charge.
7. Consult with a representative of the IT Council.
8. Consider whether the policy aligns with current practices related to telephone billing at the University.
9. Consider whether there are outdated elements of the policy that should be removed.
10. Consider whether the language in the policy should be broadened to accommodate any future changes in technology.
11. Consider whether any ancillary policies have any outdated elements that should be removed or revised.
12. Consult with a representative of the Office of General Counsel on any proposed changes to the University's policy.
13. If appropriate based on the council's consideration of the above items, recommend whether the policy should be revised and if so, provide suggested revisions.

We ask that you submit a report to the Senate Office no later than **January 31, 2024**. If you have questions or need assistance, please contact the Senate Office, senate-admin@umd.edu.



Charged: February 22, 2023 | Deadline: May 3, 2024

Request to Review UMD Policy X-3.01(A) Concerning Telephone Billing (Senate Document #22-23-20) Campus Affairs Committee | Chair: Keira Martone

The Senate Executive Committee (SEC) and Senate Chair Newman request that Campus Affairs Committee review the proposal entitled, *Proposal to Review UMD Policy X-3.01(A) Concerning Telephone Billing*.

Specifically, The Campus Affairs Committee should:

1. Review the *Proposal to Review UMD Policy X-3.01(A) Concerning Telephone Billing* ([Senate Document #22-23-20](#)) that includes the following files:
 - Proposal-reviseTelephoneBilling.pdf
 - Request_to_Review_X-3.01(A)-Alternative.pdf
2. Review the University of Maryland, College Park Policy and Procedures Concerning Telephone Billing ([X-3.01\[A\]](#)).
3. Review any ancillary policies related to X-3.01(A) University of Maryland, College Park Policy and Procedures Concerning Telephone Billing.
4. Review similar policies or procedures on telephone billing at Big 10 and other peer institutions.
5. Consult with a representative of the Division of IT.
6. Consult with a representative group of Deans on the New Network Funding model.
7. Consult with the University Senate leadership on preliminary directions and progress of the charge.
8. Consult with a representative of the IT Council.
9. Consider whether the policy aligns with current practices related to telephone billing at the University.
10. Consider whether there are outdated elements of the policy that should be removed.
11. Consider whether the language in the policy should be broadened to accommodate any future changes in technology.
12. Consider whether any ancillary policies have any outdated elements that should be removed or revised.
13. Consult with a representative of the Office of General Counsel on any proposed changes to the University's policy.
14. If appropriate based on the council's consideration of the above items, recommend whether the policy should be revised and if so, provide suggested revisions.

We ask that you submit a report to the Senate Office no later than **May 3, 2024**. If you have questions or need assistance, please contact the Senate Office, senate-admin@umd.edu.

Appendix 3

Institution	Telephone Billing Policy URL	Key Points	Notes
UMD	https://policies.umd.edu/miscellaneous-policies/university-of-maryland-college-park-policy-and-procedures-concerning-telephone-billing	<p>The billing information shall include equipment rental charges, local and long distance telephone calls, line charges, and one time service charges.</p> <p>Each department shall review all long distance charges each month and request reimbursement from users for non-business calls.</p>	
Penn State	<p>Service SLA: https://pennstate.service-now.com/sp?id=kb_article_view&sysparm_article=KB0010427&sys_kb_id=7d85b3561b05ac9013b599ba234bcb41&spa=1</p> <p>Telephony pricing & fees: https://pennstate.service-now.com/sp?id=kb_article_view&sysparm_article=KB0010739&sys_kb_id=4228c67b97d1219047b9bc171153af88&spa=1</p> <p>Cellular Telephones for Use by Employees: https://libraries.psu.edu/policies/ul-ad17</p> <p>Non-Office Telecommunications Services: https://policy.psu.edu/policies/fn21</p>		
Indiana University	<p>mobile plan and device allowance. https://policies.iu.edu/policies/fin-acc-480-mobile-plan-device-allowance/archived-04242020.html#policyStatement</p> <p>Otherwise can't find any information about telephone policy</p>		
U of Iowa	<p>Office Telephone Equipment at IU: https://kb.iu.edu/d/awgk</p> <p>Telephony equipment rates: https://uits.iu.edu/about/staff-services/finance-office/fo-rate-sheet</p> <p>See "Employee cell phone policy": https://www.ius.edu/it/policies.html</p>		
U of Michigan	<p>U-M Telephone policy: https://its.umich.edu/communication/telephone/policies</p> <p>U-M Telephone Billing & Charges Policy: https://its.umich.edu/communication/telephone/policies/telephone-billing-charges-policy</p> <p>Cell phones and portable electronic resources: https://spg.umich.edu/policy/514.04</p>		
Michigan State	https://tech.msu.edu/about/guidelines-policies/telecommunication-policies/	<p>IV. Telecommunication Billing Charges</p> <p>General</p> <p>Each department is responsible for reviewing the monthly long-distance call and local-call charges and verifying that the charges are applicable. Long-distance calls</p> <p>The Long-Distance Telephone Record (University Stores stock order #14027160) is one method that may be used to track department calls. These can be made available to all persons in the department who make long-distance calls.</p>	
U of Minnesota	https://it.umn.edu/services-technologies/how-tos/telephone-service-options	Could not find a University policy regarding telephone, telecommunications, etc...	
U of Nebraska-Lincoln	https://services.unl.edu/service/phone-service-legacy	Could not find a University policy regarding telephone, telecommunications, etc...	
Northwestern	<p>https://www.it.northwestern.edu/about/policies/index.html</p> <p>https://www.it.northwestern.edu/about/policies/acquisition.html</p> <p>https://www.it.northwestern.edu/about/policies/guidelines.html</p>	These policies cover technology and telecommunications acquisitions and guidelines. No information about billing.	
Ohio State	https://policies.osu.edu/assets/policies/expenditures-policy.pdf	Section VII: Long-distance personal calls on university office telephones are prohibited. University-provided telephones are intended for business use only.	
U of Illinois	https://www.obfs.uillinois.edu/purchases/purchases-types/telecommunications/	Policy does not provide much directive about billing except to contact their Purchasing division when a telecommunication need is identified; provides a list of all what falls under telecommunication.	

Purdue	https://www.purdue.edu/policies/information-technology/via3.html	More comprehensive than most, gives an overview of best practices including including outlining the devices and services. Recommends that department head conduct an annual review of effectiveness of current service. Lists IT Communications as the responsible party for contract for University-owned electronic devices and services.	
Rutgers-New Brunswic	https://policies.rutgers.edu/7027-currentpdf	States that "telecommunication expenses must be billed to departments on an equitable basis". Names the Office of Information Technology as the arbitor of contractual arrangements. Departments are responsible for costs of biling and should conduct reviews to see if service needs are appropriate.	Most useful model for our purpose
U of Wisconsin-Madiso	https://policy.wisc.edu/library/UW-521	Outlines best practices for mobile and desktop phones. No information regarding billing, except that Division of Information Technology is responsible for developing and distributing usage reports that should be reviewed by department.	

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DIT New Network Funding

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In January of 2019 the Division of IT set out to define and implement a new network funding model that would allow us to recoup network costs, invest in future IT needs (both in terms of new technology and refreshing older technologies), and provide transparency to the university community. This model represents a shift from one-off charges, which Departments have been incurring via Pinnacle to a Per FTE charging model that takes advantage of a bundled rate.

This effort replaces the previous charging model and will result in a realignment and simplification of charges to Departments. In partnership with Grant Thornton, we interviewed university stakeholders to better understand their experiences with network billing and services. The information gathered was used to develop cost recovery and rate setting recommendations which are heavily leveraged in the Per FTE charging model we are implementing, effective Fiscal Year 2022.

A Per-FTE model provides a simplified, predictable, and equitable method of network funding cost recovery. This implementation has been approved by the Budget Action Committee.

Bundled and Ad Hoc rates

Network funding bundled services

The FY24 rate is \$28.87 per FTE.

Service offering	One time fee	Monthly recurring fee
Jack activation (3.5 per FTE based on Department)	Included in bundle	Included in bundle
Wireless network connectivity	Included in bundle	Included in bundle
Telephone Service	Included in bundle	Included in bundle
Telephone units (1 per FTE)	Included in bundle	Included in bundle
Conference room phones (1 per 33 FTEs)	Included in bundle	Included in bundle
Local and domestic long distance	Included in bundle	Included in bundle
International long distance (up to \$200/month per division or college)	Included in bundle	Included in bundle

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Fees for services outside of bundle

Service offering	One time fee	Monthly recurring fee
Jack installation (2 port)	\$400	\$0
Telephone unit - analog	\$0	\$3
Telephone unit - VoIP	\$0	\$5
Telephone unit - VoIP conference phone	\$0	\$13
Contact Center Setup	\$1,000	\$53
International long distance	\$0	Actual costs above bundled allocation
Toll free numbers	\$60	\$10 + usage
Verizon lines	\$60	\$10 + usage

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High density installations

Service offering	One time fee	Monthly recurring fee
Gigabit network connection	\$0	\$5
10Gbps network installation	\$440	\$20
100+ Gbps network installation	DIT consultation	DIT consultation

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Dark fiber installations*

Service offering	One time fee	Monthly recurring fee
Single Mode 1 Strand	\$1,000	\$50
Single Mode 2 Strands	\$1,000	\$100
Multi Mode 1 Strand	\$1,000	\$50
Multi Mode 2 Strands	\$1,000	\$100

*Based on fiber infrastructure availability. Requires DIT Consultation.

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Miscellaneous

Service offering	One time fee	Monthly recurring fee
Technician consultation/labor hourly rate	DIT consultation	\$60/hour + materials
Cherry Hill Road Data Center (Full Rack)	DIT consultation	\$233
Cherry Hill Road Data Center (Shared Rack)	DIT consultation	\$6.48
AVW Data Center	DIT consultation	\$0
ISP services - for 3rd party requests outside of UMD	DIT consultation	DIT Consultation/ Signed MOU

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Network funding charge per FTE

The FY24 rate will be \$28.87 per FTE (prorated for FTEs < 1) for PHR appointment types: regular, faculty, contingent 2, contingent 1, hourly students, and graduate assistants. Appointment types, such as affiliates, with zero FTE will not be charged as these are non-standard appointments.

Charges occur bi-weekly and pull FTE information from payroll each pay period. Charges are incurred at the PHR Department level. Each department is able to assign a (non-ledger 4 or 5) KFS number that will be used to process these charges.

Charges for hourly appointments are one pay period behind, as they are with payroll. For instance, charges in PP03 are for hourly appointment FTE records from PP02. Each fiscal year, charges will hit similarly to how payroll does. There will be a reversal from the new FY to the old FY for non-hourly appointments for PP01.

There will be a yearly review of the rate/bundle. This governance process is still being finalized, but final rate approval will be made by the Budget Action Committee and UMD President.

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FY24 object codes

- The Network Funding charge per FTE: object code 3219 - DIT-Network Access Fee.
- All other DIT services: object code 3790 - DIT-Billable Services.

The only exceptions are charges processed by our Software Licensing team and the Terrapin Tech store.

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KFS account maintenance form and reports

The KFS network funding account maintenance form and reports can be found at <https://kfs.umd.edu/portal.jsp>.
[<https://kfs.umd.edu/portal.jsp>](https://kfs.umd.edu/portal.jsp)

KFS network funding account

This maintenance form must be used to assign a (non-ledger 4 or 5) KFS account number to each department. It can be used to update the KFS number assigned as well.

Any new departments created using the Establish a New Campus Organizational Unit/Code form is required to assign a Network Funding KFS number at the time of creation. This can be updated later on if needed using KFS Network Funding Account maintenance form.

The Network Funding Account maintenance form can be found on the main menu **Lookup and Maintenance** > **Chart of Accounts** > **Network Funding Account form**.

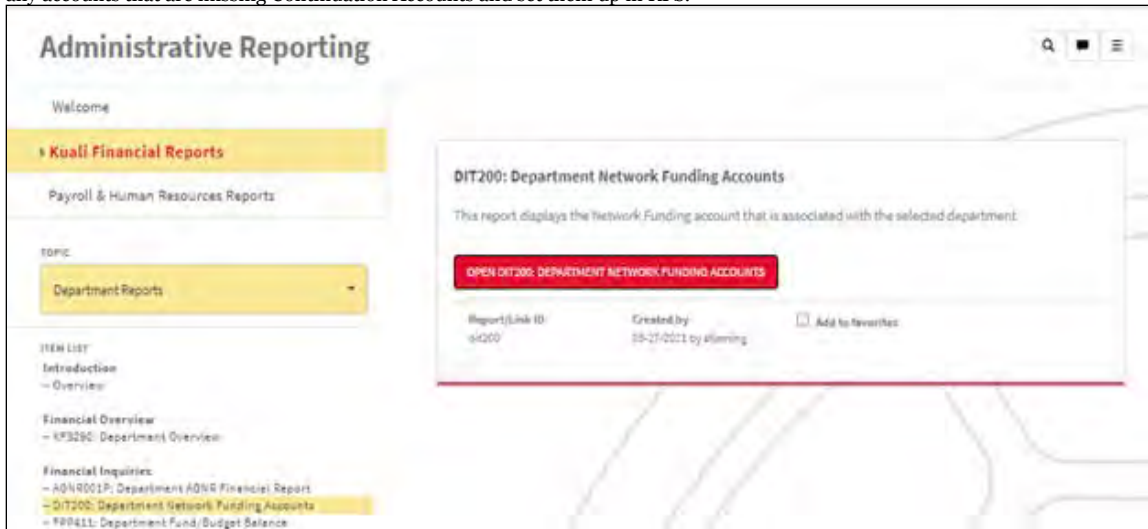
For more details, see [Set or Update a department's KFS number <https://itsupport.umd.edu/itsupport?id=kb_article_view&sysparm_article=KB0016105>](https://itsupport.umd.edu/itsupport?id=kb_article_view&sysparm_article=KB0016105).

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Reports

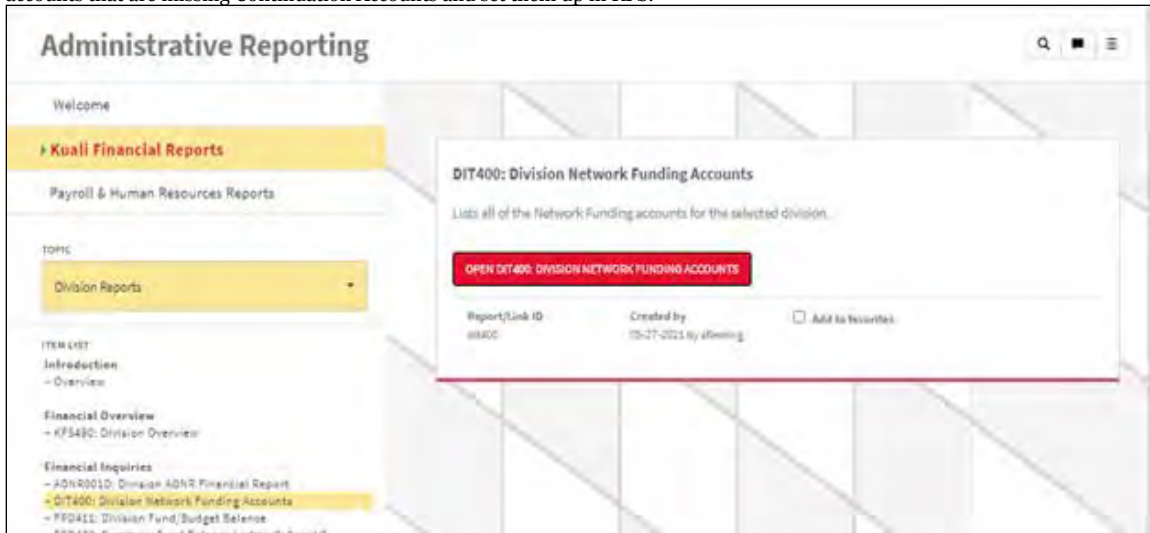
Access KFS reports by clicking the **KFS Reports** button under the Main Menu Navigation tab.

- **DIT200: Department Network Funding Accounts:** This report will show a summary of the assigned KFS account number to each of your departments, as well as departments that are in need of a KFS number assignment. You can also review any accounts that are missing Continuation Accounts and set them up in KFS.



- **DIT400: Division Network Funding Accounts:** This report shows a summary of the assigned KFS account number to each department under a division, as well as departments that are in need of KFS number assignments. You can also review any

accounts that are missing Continuation Accounts and set them up in KFS.



▪ **KFS090: Account Overview - Charges Tab:** This report shows the full details of Network Funding charges that hit your accounts assigned to departments.

Depending on your access level, utilize either DIT400: Division Network Funding Accounts or DIT200: Department Network Funding Accounts to generate a list of your departments that need Network Funding Account assignment.

You can download the report as a spreadsheet or PDF. The spreadsheet will allow easy copy/paste of department codes. Departments are all coded P+6 digits (P*****) and are called Organization or Org Codes in KFS.

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Helpful?

Yes

No



2024-2025 Senate Standing Committee & University Council Slates

PRESENTED BY Sarah Dammeyer, Chair

REVIEW DATES SEC – August 19, 2024 | SENATE – September 5, 2024

VOTING METHOD In a single vote

RELEVANT POLICY/DOCUMENT N/A

NECESSARY APPROVALS Senate, President

ISSUE

Presentation of the Senate Standing Committee and University Council Slates, as generated by the Senate Committee on Committees, to be approved by the Senate Executive Committee (SEC) and the University Senate.

RECOMMENDATION(S)

The Committee on Committees recommends that the Senate approve the slates as submitted.

COMMITTEE WORK

The Committee on Committees met on May 31, 2024 for an introductory meeting, and on June 18, 2024, June 24, 2024, and July 8, 2024 to review all committee volunteers and their statements. There were 93 membership openings on the ten standing committees of the Senate. The Committee on Committees reviewed 154 volunteer applications from the campus faculty, staff, and graduate and undergraduate student constituencies. The committee endeavored to create balanced standing committee memberships, representing a variety of Colleges/Schools, departments/units, disciplines, positions, and backgrounds. The committee members also considered the volunteers’ top three committee choices indicated on their applications. In addition, the committee members and the Senate Office staff engaged in further recruitment efforts as needed for specific committee membership seats.

The Committee on Committees approved the final slates of the committee memberships on July 12, 2024. Following the final placements, the Senate Office informed all the volunteers whether they were placed on a committee for the 2024-2024 academic year. The Senate Office staff worked with the Chair of the Committee on Committees to fill any vacancies that arose during the summer.

Senate Chair Sly appointed current Senators as chairs for each of the ten standing committees of the Senate, in accordance with the provisions of the Senate Bylaws. They are included on the slates for approval by the Senate. In addition, the committee slates include the continuing committee

members and the ex-officio representatives appointed by the appropriate administrative unit head, which are provided for information only.

The Senate Chair, assisted by Senate Office Staff, consulted with the designated administrative officers to create a slate of candidates for each University Council. Individuals nominated by Senators, volunteers for Senate committees who were not placed on a committee, and past Council members were considered.

On June 10, 2024, the Senate Chair met with the Dean of the Libraries and Chair of the Library Council to select the members of the Library Council. The membership slate that they proposed will be considered by the Committee on Committees for referral to the Senate Executive Committee (SEC) to place on the agenda for the September 5, 2024 Senate meeting.

The Vice President and Chief Information Officer and Information Technology (IT) Council Chair emailed their selected members to the Senate Chair for approval.

At this time, the Senate Office is still working to schedule a meeting with the Research Council to select their membership.

In accordance with the Senate Bylaws, the slates for the University Councils will be considered for approval by the Committee on Committees and submitted to the SEC to be placed on the agenda for the September 5, 2024 Senate meeting.

Any remaining vacancies on committees and councils that arise during the academic year will be filled in accordance with the Senate Bylaws.

ALTERNATIVES

The Senate could decide not to approve the slates.

RISKS

There are no risks to the University in approving these slates.

FINANCIAL IMPLICATIONS

There are no financial implications in approving these slates.

Academic Procedures & Standards (APAS) Committee

Vacancies

Staff

Nominated

Sonia Jallah	Faculty	VPR	2026
Sun Young Lee	Faculty	ARHU	2026
Celina McDonald	Faculty	LIBR	2026
Ana Navarro Cebrian	Faculty	BSOS	2026
Kellie Rolstad	Faculty	EDUC	2026
Assion Tetteh	Graduate Student	ENGR	2025
Sarah Balcom	Faculty	UNKN	2026
Addison Hanrattie	Undergraduate Student	CMNS	2025
Judi Khalifa	Undergraduate Student	INFO	2025
Mira Tadimalla	Undergraduate Student	BMGT	2025

Ex-Officio

Adrian Cornelius	Ex-Officio - University Registrar Rep	SVPAAP	2025
Shannon Gundy	Ex-Officio - Director of Undergraduate Admissions Rep	SVPAAP	2025
Lisa Kiely	Ex-Officio - Undergraduate Studies Rep	UGST	2025
William Cohen	Ex-Officio - Provost's Rep	UGST	2025
Ryan Long	Ex-Officio - Graduate School Rep	ARHU	2025

Continuing Members

Linda Coleman	Faculty	ARHU	2025
Crystal Davis	Faculty	ARHU	2025
Michael Kio	Faculty	ENGR	2025
Marilee Lindemann	Faculty	UGST	2025

Chair

Shannon Buenaflor	Chair	ENGR	2025
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Campus Affairs Committee

Vacancies

Ex-Officio - VP Marketing & Communications Rep

Nominated

Rosanne Hoaas	Staff	VPA	2026
Errica Philpott-Barber	Staff	CMNS	2026
Deneen Brown	Faculty	JOUR	2026
Gregory Deinert	Faculty	ARHU	2026
Gatha Adhikari	Graduate Student	ENGR	2025
Abbey Potter	Graduate Student	BSOS	2025
Kristen Bradish	Undergraduate Student	ENGR	2025
Alisha Khan	Undergraduate Student	SPHL	2025

Ex-Officio

Courtney Brown	Ex-Officio - VP & Chief Administrative Officer Rep	VPA	2025
Shawn Flynn	Ex-Officio - Chair of Coaches Council Rep	PRES	2025
Tom Flynn	Ex-Officio - VP Student Affairs Rep	VPSA	2025
Megan Gebregziabher	Ex-Officio - Provost's Rep	SVPAAP	2025
Emily Lucio	Ex-Officio - Vice President for Diversity & Inclusion Rep	PRES	2025
Divon Pender	Ex-Officio - GSG Rep	EDUC	2025
Reese Artero	Ex-Officio - SGA Rep	BSOS	2025

Continuing Members

Corinne Carter	Faculty	CMNS	2025
Diganta Das	Faculty	ENGR	2025
Joseph Koivisto	Faculty	LIBR	2025
Lance Yonkos	Faculty	AGNR	2025

Chair

Karen Denny	Chair	JOUR	2025
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Educational Affairs Committee

Nominated

Elizabeth Gotwalt	Staff	EDUC	2026
Sonia Hirschauer	Faculty	CMNS	2026
Pamela McClanahan	Faculty	LIBR	2026
Daniel Sidman	Faculty	ARHU	2026
Sara Wilder	Faculty	ARHU	2026
Maggie Williams	Faculty	ARHU	2026
Taylor Woodman	Faculty	EDUC	2026
Shue Mok	Graduate Student	EDUC	2025
Elisabeth Caruso	Undergraduate Student	BSOS	2025
Sydney Mitchell	Undergraduate Student	ARHU	2025

Ex-Officio

Lisa Kiely	Ex-Officio - Undergraduate Studies Rep	UGST	2025
Linda Macri	Ex-Officio - Graduate School Rep	GRAD	2025
Marcio Oliveira	Ex-Officio - Division of Information Technology Rep	DIT	2025
Tami Smith	Ex-Officio - Provost's Rep	SVPAAP	2025
Douglas Roberts	Ex-Officio - Associate Dean for General Education	UGST	2025
Varaa Kukreti	Ex-Officio - GSG Rep	ENGR	2025
Linsey Anderson	Ex-Officio - SGA Rep	AGNR	2025

Continuing Members

John DeOrnellas	Staff	EXST	2025
Leah DiCiesare	Faculty	LIBR	2025
Marilena Draganescu	Faculty	EDUC	2025
Riva Riley	Faculty	UGST	2025
Derek Willis	Faculty	JOUR	2025

Chair

Philip Evers	Chair	BMGT	2025
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Elections, Representation, & Governance (ERG) Committee

Vacancies

Ex-Officio - Director of Human Resources Rep
Non-Exempt Staff

Nominated

Tom Hatcher	Faculty	ARHU	2026
Jessica O'Hara	Faculty	SVPAAP	2026
Sajeela Yaqub	Faculty	ARHU	2026
Janet Adesina	Graduate Student	ARCH	2025
Suraj Krishnamurti	Graduate Student	ENGR	2025
Sophia Conrad	Undergraduate Student	SPHL	2025
Madeleine Reynoso	Undergraduate Student	BSOS	2025

Ex-Officio

Pamela Phillips	Ex-Officio - Associate VP IRPA Rep	SVPAAP	2025
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Continuing Members

Lian Kish	Exempt Staff	BMGT	2025
Paul Brown	Faculty	PLCY	2025
Jon Crocker	Faculty	BMGT	2025
Polly O'Rourke	Faculty	INFO	2025

Chair

Kim Gonzalez	Chair	BMGT	2025
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Equity, Diversity, & Inclusion (EDI) Committee

Nominated

Felicia Bidgell	Exempt Staff	VPA	2026
Lanna Duarte	Exempt Staff	SPHL	2026
Jack Garrard	Exempt Staff	VPSA	2026
Lacey Curry	Faculty	BSOS	2026
Joanne Klossner	Faculty	SPHL	2026
Delida Sanchez	Faculty	EDUC	2026
Anna Emenheiser	Graduate Student	CMNS	2025
Dalton Greene	Graduate Student	ARHU	2025
Ashley Monroe	Non-Exempt Staff	BSOS	2026
Caroline Griffith	Undergraduate Student	LTSC	2025
Chinaza Ofor	Undergraduate Student	BSOS	2025

Ex-Officio

Dannielle Glaros	Ex-Officio - VP & Chief Administrative Officer Rep	VPA	2025
Yvette Lerma Jones	Ex-Officio - VP Student Affairs Rep	VPSA	2025
Brian Medina	Ex-Officio - Vice President for Diversity & Inclusion or Rep	PRES	2025
Angela Nastase	Ex-Officio - OCRSM Rep	PRES	2025
Laura Rosenthal	Ex-Officio - Provost's Rep	ARHU	2025

Continuing Members

Thu Nguyen	Faculty	SPHL	2025
Shane Walsh	Faculty	BSOS	2025
Lauren Miles	Non-Exempt Staff	CMNS	2025

Chair

Yasmeen Shah	Chair	BSOS	2025
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Faculty Affairs Committee

Vacancies

Ex-Officio - Director of Human Resources Rep
 Graduate Student
 Graduate Student
 Ex-Officio - CUSF Rep

Nominated

Adam Lloyd	Faculty	ARHU	2026
Andrew Ristvey	Faculty Senator	AGNR	2026
Sarah Weiss	Faculty	LIBR	2026
Gianna Gasparro	Undergraduate Student	BMGT	2025

Ex-Officio

Michele Eastman	Ex-Officio - President's Rep	PRES	2025
John Bertot	Ex-Officio - Provost's Rep	SVPAAP	2025
Karen O'Brien	Ex-Officio - Ombuds Officer	BSOS	2025

Continuing Members

Jerelyn Fileppi	Staff	BSOS	2025
Vikrant Aute	Faculty Senator	ENGR	2025
Sabrina Baron	Faculty	ARHU	2025
Jessica Mathiason	Faculty	ARHU	2025
Terry Owen	Faculty	LIBR	2025
Heidi Scott	Faculty Senator	SPHL	2025
Piotr Swistak	Faculty	BSOS	2025
Lei Zhou	Faculty Senator	BMGT	2025

Chair

Fatemeh Keshavarz-Karamustafa	Chair	ARHU	2025
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Programs, Curricula, & Courses (PCC) Committee

Nominated

Theresa Bickham	Faculty	ARHU	2026
Matthew Cain	Faculty	LIBR	2026
Ritesh Karki	Faculty	AGNR	2026
Kellie Rolstad	Faculty	EDUC	2026
Radford Skudrna	Faculty	ARHU	2026
Paul Turner	Faculty	SPHL	2026
Ji Seung Yang	Faculty	EDUC	2026
Pawan Pradhan	Graduate Student	ENGR	2025
Adam Bain	Undergraduate Student	INFO	2025
Leeann Wong Arbelo	Undergraduate Student	ARHU	2025

Ex-Officio

Lisa Kiely	Ex-Officio - Undergraduate Studies Rep	UGST	2025
Ryan Long	Ex-Officio - Graduate School Rep	ARHU	2025
Daniel Mack	Ex-Officio - Dean of Libraries Rep	LIBR	2025
William Reed	Ex-Officio - Provost's Rep	SVPAAP	2025

Continuing Members

Juana Hurtado	Staff	ENGR	2025
Robert Brame	Faculty	BSOS	2025
Joanna Goger	Faculty	AGNR	2025
Tracy Sweet	Faculty	EDUC	2025

Chair

Wendy Stickle	Chair	BSOS	2025
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Staff Affairs Committee

Vacancies

Ex-Officio - Director of Human Resources Rep

Exempt Staff Contingent II

Non-Exempt Staff Contingent II

Nominated

Alex Aiosa	Exempt Staff (Division)	DIT	2026
Julie Servidio	Exempt Staff (Academic)	ENGR	2026
Troy Wainwright	Exempt Staff (Division)	VPUR	2026
Maggie Saponaro	Faculty	LIBR	2026
Ellen Jimenez	Non-Exempt Staff (Division)	VPF	2026
William Routzahn	Non-Exempt Staff (Division)	VPA	2026
Caitlin Kearney	Student	BSOS	2025

Ex-Officio

Suzanne Ashour-Bailey	Ex-Officio - CUSS Rep (Non-Voting)	ENGR	2026
Earl Cabellon	Ex-Officio - VP Student Affairs Rep	VPSA	2025
Meredith Carpenter	Ex-Officio - CUSS Rep	VPSA	2026
Megan Gebregziabher	Ex-Officio - Provost's Rep	SVPAAP	2025
Dannielle Glaros	Ex-Officio - VP & Chief Administrative Officer Rep	VPA	2025
Adrienne Mayo-Brown	Ex-Officio - CUSS Rep (Non-Voting)	EDUC	2026
Kalia Patricio	Ex-Officio - CUSS Rep	VPSA	2026
Namrata Ram-Andriessens	Ex-Officio - CUSS Rep (Non-Voting)	VPA	2026
Maureen Schrimpe	Ex-Officio - CUSS Rep	VPSA	2026

Continuing Members

Allison Decker	Exempt Staff (Academic)	ARHU	2025
Cathy Fisanich	Non-Exempt Staff (Academic)	CMNS	2025
Amy Yaich	Non-Exempt Staff (Academic)	CMNS	2025

Chair

Adrienne Mayo-Brown	Chair	EDUC	2025
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Student Affairs Committee

Vacancies

Graduate Student Senator
 Graduate Student Senator
 Undergraduate Student Senator
 Undergraduate Student Senator

Nominated

Keia Brown	Staff	SVPAAP	2026
Tyrese Fenty	Staff	PLCY	2026
Sydney Sharpstene	Faculty	ARHU	2026
Sururah Abdulrazaq	Graduate Student	ARCH	2025
Helen Craig	Graduate Student	CMNS	2025
Zachary Braunstein	Undergraduate Student	ARHU	2025
Denise Demontagnac	Undergraduate Student Senator	BSOS	2025
Sara Hussain	Undergraduate Student	BSOS	2025
Ibrahim Khan	Undergraduate Student	BMGT	2025
Aaron Lewis	Undergraduate Student	CMNS	2025
Dylan Patel	Undergraduate Student Senator	CMNS	2025

Ex-Officio

Yi Hao	Ex-Officio - Graduate School Rep	GRAD	2025
Matthew Supple	Ex-Officio - VP Student Affairs Rep	VPSA	2025
Laura Tan	Ex-Officio - Resident Life Rep	VPSA	2025
Brian Watkins	Ex-Officio - VP Student Affairs Rep	VPSA	2025
Mikol Bailey	Ex-Officio - GSG Rep	ARHU	2025
Reese Artero	Ex-Officio - SGA Rep	BSOS	2025

Continuing Members

Abigail Nicolas	Faculty	BSOS	2025
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Chair

Ivy Lyons	Chair	JOUR	2025
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Student Conduct Committee

Nominated

Gideon Mark	Faculty	BMGT	2026
Joseph O'Leary	Graduate Student	ENGR	2025
Joanna Wiley	Staff	LIBR	2026
Amol Ajmera	Undergraduate Student	BMGT	2025
Ayodotun Banjo	Student	BSOS	2025
Nina Belliveau	Undergraduate Student	BSOS	2025
Zharia Hall	Undergraduate Student	BSOS	2025

Ex-Officio

James Bond	Ex-Officio - Director of Student Conduct (Non-Voting)	VPSA	2025
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Continuing Members

Christopher Hanson	Faculty	JOUR	2025
Monique Koppel	Faculty	CMNS	2025
Katherine Lieder	Faculty	UGST	2025

Chair

Keira Martone	Chair	VPSA	2025
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IT Council

Vacancies

Ex-Officio - IT Student Advisory Committee

Nominated

Jennifer Boone	IT Security Advisory Committee Chair	VPR	2026
Mia Hinckle	Exempt Staff	INFO	2026
Katherine Russell	Enterprise Systems Working Group Chair	BSOS	2026
Dai-An Tran	Infrastructure Working Group Chair	VPSA	2026
John Bono	Professional Track Faculty	BMGT	2026
Kee-Young Moon	Tenured Faculty	LIBR	2026
Harrison Bauman	Graduate Student	CMNS	2025
Zachary Braunstein	Undergraduate Student	ARHU	2025

Ex-Officio

Michelle Appel	Ex-Officio - Provost's Rep	SVPAAP	2025
David Dahl	Ex-Officio - Dean of Libraries Rep	LIBR	2025
Jeffrey Hollingsworth	Ex-Officio - VP IT/CIO	DIT	2025

Continuing Members

Abhinav Bhatele	Enabling Research Working Group Chair	CMNS	2025
Derek Richardson	Learning Technology Working Group Chair	CMNS	2025

Chair

Jeffery Klauda	Chair	ENGR	2025
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Library Council

Vacancies

Faculty

Nominated

John Cumings	Faculty	ENGR	2026
Emily Deinert	Library Faculty	LIBR	2026
Marilena Draganescu	Faculty	EDUC	2026
Michele Mason	Faculty	ARHU	2026
Ilai Saltzman	Faculty	ARHU	2026
Ting-Wei Hsu	Graduate Student	INFO	2025
Fatima Bundu	Undergraduate Student	CMNS	2025

Ex-Officio

Mary Fortier	Ex-Officio - Libraries Rep	LIBR	2025
Samuel Porter	Ex-Officio - Division of IT Rep	DIT	2025
Elizabeth Beise	Ex-Officio - Provost's Rep	SVPAAP	2025
Sarah Dammeyer	Ex-Officio - Senate Chair-Elect	ARHU	2025

Continuing Members

Philip Cohen	Faculty	BSOS	2025
Susan Kern	Faculty	ARCH	2025
Kisa Lape	Faculty	ARHU	2025
Naomi Sachs	Faculty	AGNR	2025

Chair

Holly Brewer	Chair	ARHU	2025
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Research Council

Vacancies

Chair
 Faculty
 Faculty
 Faculty
 Faculty
 Faculty
 Graduate Student
 Student
 Staff
 Undergraduate Student

Nominated

There are currently no new members in this group.

Ex-Officio

Mariah Bauer	Ex-Officio - Provost's Rep	SVPAAP	2025
Eric Chapman	Ex-Officio - VP Research Rep	VPR	2025
Blessing Enekwe	Ex-Officio - Graduate School Rep	GRAD	2025
Wendy Montgomery	Ex-Officio - Director of ORA Rep	VPR	2025
Kanitta Tonggarwee	Ex-Officio - President's Rep	PRES	2025
Douglas Roberts	Ex-Officio - Undergraduate Studies Rep	UGST	2025

Continuing Members

Typhanye Dyer	Faculty	SPHL	2025
Anwar Huq	Faculty	CMNS	2025

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